



राजपत्र, हिमाचल प्रदेश

हिमाचल प्रदेश राज्य शासन द्वारा प्रकाशित

शिमला, शनिवार 19 जनवरी, 2013 / 29 पौष, 1934

हिमाचल प्रदेश सरकार

LABOUR AND EMPLOYMENT DEPARTMENT

NOTIFICATION

Shimla-2, the 14th January, 2013

No. Sharm (A) 7-1/2005 (Award) –Loose.— In exercise of the powers vested in her under section 17(1) of the Industrial Disputes Act, 1947, the Governor Himachal Pradesh is pleased to order the publication of awards announced by the Presiding Officer, Labour Court, Dharamshala of the following cases on the website of Labour & Employment Department:—

Sr. No:	Case No:	Title of the Case		Date of Award
1.	261/10	Smt./Shri Ashok Kumar	White Heaven Tea Estate	21-07-2012
2.	449/10	Kailash Chand	EE-I&PH Dalhousie	1-8-2012
3.	157/10	Yash Pal	C&C Co.	13-8-2012
4.	78/11	Bhag Singh	EE HPPWD Salooni	3-9-2012
5.	493/09	Daulat Ram	BDO Tissa	3-9-2012

By order,

Sd/-

Addl. Chief Secretary (Labour & Employment)

IN THE COURT OF RAJAN GUPTA, PRESIDING JUDGE, LABOUR
COURT-CUM-INDUSTRIAL TRIBUNAL, DHARAMSHALA, H.P.

Ref No. : 261/2010

Date of Institution : 18.11.2010

Date of Decision : 21.7.2012

Shri Ashok Kumar Awasthi s/o Shri Girdhari Lal Awasthi, r/o Village Gorda
Bhanala, P.O. & Tehsil Shahpur, District Kangra, H.P. ..Petitioner.

Versus

(1) The Proprietor, White Heaven Tea Estate, Dharamshala, District Kangra, H.P.

(2) Manager, White Heaven Tea Estate, Dharamshala, District Kangra, H.P.

..Respondents.

Reference under Section 10 (1) of the Industrial Disputes Act, 1947.

For the Petitioner : Sh. K.K. Chaudhary, Adv.

For the Respondents : Sh. Gaurav Pathania, Adv.

AWARD

The below given reference has been received from the appropriate Government for adjudication:

“Whether the action of the management of (1) The Proprietor, White Heaven Tea Estate, Dharamshala, District Kangra, H.P. (2) Manager, White Heaven Tea Estate, Dharamshala, District Kangra, H.P. to terminate again the services of Shri Ashok Kumar Awasthi s/o Shri Girdhari Lal Awasthi w.e.f. 21.7.2008 vide notice dated 21.07.2008 and that too inspite of award dated 12.06.2001 passed by the Ld. Labour Court Shimla and upheld by the Hon’ble High Court of H.P., Shimla on 05.09.2007 and implementation of the award partially thereof, is legally maintainable & justified? If not, to what back wages, service benefits and relief the above named workman is entitled to?”

2. The case of the petitioner (as set out in the statement of claim/demand) is that his services were engaged as a Munshi by the respondents in Tea Estate, Dharamshala in the year 1984. He performed his duties honestly and to the satisfaction of his superiors continuously up-to 30.12.1994. On the said date, his services were terminated by the respondents without following the procedure prescribed in the Industrial Disputes Act, 1947 (‘the Act’ for short). The matter was brought by him to the notice of Labour Officer, Dharamshala. The appropriate Government then sent a reference to the Labour Court, Shimla. Such reference/claim petition was decided in his (petitioner’s) favour per Award dated 12.6.2001 rendered by the Labour Court, Shimla. The respondents were directed to reinstate him in service and pay the back wages. Against the Order/Award dated 12.6.2001 of the Labour Court, Shimla the respondents preferred Civil Writ Petition before the Hon’ble High Court of Himachal Pradesh. The writ petition was rejected by the Hon’ble High Court vide judgment dated 05.9.2007. The decision of the Labour Court, Shimla was upheld. As per the orders of the Labour Court, Shimla and the Hon’ble High Court of Himachal Pradesh, he (petitioner) joined the service once again on 01.10.2007. He used to perform his duties regularly as per the instructions issued by the respondents. Due to the litigation, the behaviour of the respondents changed towards him. They stopped paying the salary to him without any reason.

Consequently, he (petitioner) instituted an application on 06.5.2008 before the Commissioner for Payment of Wages cum SDO (Civil), Dharamshala. That application was also decided in his favour. During the pendency of the case, his services were again terminated by the respondents on 21.7.2008 wrongly and illegally as well as in violation of the Award dated 12.6.2001 passed by the Labour Court, Shimla. On the next day i.e. 22.7.2008 when he (petitioner) reported for duty in Tea Estate, Dharamshala, he was not allowed to perform the work by the respondents on the pretext that his services have already been dispensed with. He was shocked to hear this version of the respondents. He is the senior most employee in the establishment. He is ready to perform his duties regularly as per the choice and instructions of the respondents. The latter have failed to adhere to the principle of 'last come first go'. Legal notice dated 10.9.2008 was served upon the respondents by him. No reply to the said notice was received. Thereafter, he (petitioner) reported the matter to Labour-cum-Conciliation Officer, Dharamshala. The respondents were summoned during the proceedings. They did not agree to his (petitioner's) demand for reinstatement in service etc.

As such, as is apparent from the prayer clause of the petition/statement of claim, the petitioner has claimed the following relief(s) in this case.

“the services of the applicant be restored forthwith w.e.f. 12.7.2008 respondent may also be directed to pay all outstanding amount of wages w.e.f. 12.7.2008 till the date of reinstate of service of the applicant. The termination order dated 12.7.2008 be quashed being illegal and heavy penalty be upon the respondents for their illegal acts. It is, further prayed that the respondents may also be directed to pay half monthly pay till the decision of the case”.

3. On notice, the respondents appeared. They filed joint reply controverting the averments made in the petition/statement of claim. Preliminary objection has been taken to the effect that the petitioner has no cause of action. In the previous application bearing No.4/2009 decided by this Court, the petitioner has received a sum of Rs.32325/- as full and final settlement of his claim. The application was disposed of by this Court on 20.10.2010.

On merits, it has been owned that the petitioner was appointed as a Munshi in the year 1984 by them (respondents). Taking place of the earlier litigation and passing of various orders by the Courts stands admitted. However, it has been pleaded that the services of the petitioner were disengaged w.e.f. 21.7.2008 after following the procedure prescribed in the Act. The post of Munshi was abolished as it was no more required. For the said reason the services of the petitioner were terminated. Notice alongwith the compensation amount was duly offered to the petitioner which he refused to accept. Thereafter, the notice of retrenchment and compensation money were sent to the petitioner through registered post. He refused to accept the registered letter. After 21.7.2008, the petitioner never attended the work. He is a habitual litigant and is taking the advantage of the liberties offered to the employees in general. The post of Munshi was abolished since the number of workers working in the Tea Garden had fallen to less than 10. The petitioner is not entitled to re-employment etc. The petition is meritless.

In these circumstances, the respondents pray that the petition in hand be dismissed with costs.

4. In the rejoinder, the petitioner has reiterated the contents of the petition and refuted the objections put forth by the respondents. It has been maintained that the application No.4/2009 related to the payment of back wages w.e.f. 30.12.1994 to 06.3.2002 as per the Order/Award dated 12.6.2001 pronounced by the Labour Court, Shimla. The present dispute was neither resolved nor settled in the said application. Rs.32,325/- were paid by the respondents being the arrears of wages from 30.12.1994 to 06.3.2002.

5. Per order dated 21.9.2011, following issues were struck by my Id. Predecessor:

1. Whether the disengagement of the petitioner w.e.f. 21.7.2008 is violative of the provisions of the Industrial Disputes Act as alleged, despite an earlier Award passed by this Court on 12.6.2001. If so, to what relief the petitioner is entitled to?
..OPP.

2. Whether the petitioner has no cause of action in view of an earlier application No.4/2009 decided by this Court vide an Order dated 20.10.2010 as alleged. If so, to what effect?
..OPR.

3. Relief.

6. I have heard the Id. counsel/AR for the parties and have gone through the case file.

7. For the reasons detailed here under, my findings on the above issues are as follows:—

Issue No.1 : Yes

Issue No.2 : No

Relief. : Claim petition allowed in part
vide operative portion of the Award.

Reasons for findings

Issues No. 1 And 2

8. Being interlinked and to avoid the repetition, both these issues are taken up together for discussion and disposal.

9. The petitioner Shri Ashok Kumar stepped into the witness box as PW1. He reiterated on oath the contents of the petition/statement of claim in its entirety.

10. In the cross-examination, he denied that a notice of retrenchment dated 09.7.2008 was sent to him by the respondents which he refused to receive. He also denied that the refusal was made by him in the presence of S/Sh. Manohar Lal, Tinku Singh and Goldy. He admitted that Rs.32325/- were paid to him by the respondents as per the order of the Court. He denied that his entire dues uptil date and compensation have been paid to him by the respondents. Receipt Ex. PW1/F has been issued by his counsel Sh. K.K. Chaudhary, Adv. He denied that he has instituted a phoney petition to harass his adversaries.

11. Conversely, Sh. S.S. Sidhu, Manager, White Heaven Tea Estate, Dharamshala (respondent No.2) testified as RW2. In his affidavit Ex. RW2/A submitted in accordance with Order 18 Rule 4 CPC, he corroborated on oath the contents of the reply filed by him.

12. In the cross-examination, he admitted that earlier also the services of the petitioner were disengaged and the litigation had taken place which was decided in favour of the workman (petitioner). He admitted that the petitioner used to attend to his work regularly. He denied that the services of the petitioner have been terminated in a wrongful manner.

13. RW1 is Shri Jeevan Kumar, Peon of this office/Court. He simply brought the file of the application No.4/2009 titled as Ashok Kumar vs. Manager, White Heaven Tea Estate, Dharamshala and proved the documents Exts. RW1/A to C.

14. Ex. PW1/A is the copy of the Award dated 12.6.2001 rendered by the Ld. Presiding Judge, H.P. Labour Court, Shimla in Reference No.141/1996, titled as Shri Ashok Kumar Awasthi vs. Manager, White Heaven Tea Estate, Dharamshala & Anr.

15. Ex. PW1/B is the copy of the judgment dated 05.9.2007 pronounced by the Hon'ble High Court of Himachal Pradesh in CWP No. 672/2001. It depicts that the writ petition preferred by the respondents against the Award dated 12.6.2001 was dismissed by the Hon'ble High Court of Himachal Pradesh.

16. Ex. PW1/C is the copy of the notice of retrenchment dated 21st July, 2008 served upon the petitioner by the respondent No.2.

17. Ex. PW1/D is the copy of the legal notice dated 10.9.2008 sent by the petitioner to the respondents.

18. Ex. PW1/E is the copy of the order dated 20.10.2010 passed by my Id. Predecessor in Application No.4/2009. It unfolds that the application instituted by Shri Ashok Kumar (petitioner) against the respondents was dismissed having been satisfied.

19. Ex. PW1/F is the copy of receipt issued by the Id. counsel for the petitioner in the earlier litigation. It shows that a cheque of Rs. 32,325/- was received by Sh. K.K. Chaudhary, Adv., Dharamshala Id. counsel for the petitioner, on his behalf in the case titled as Ashok Kumar vs. White Heaven Tea Estate which was pending in this Court being full and final payment and settlement of the case.

20. Ex. PW1/G is the copy of the judgment dated 16.11.2008 passed by the Commissioner Workmen's Compensation, Dharamshala in case No.4/2008 titled as Ashok Kumar vs. Manager, White Heaven Tea Estate, Dharamshala & Anr.

21. Ex. RW1/A is the copy of the order dated 20.10.2010. It corresponds to Ex. PW1/E.

22. Ex. RW1/B is the copy of the statement made by the petitioner on 20.10.2010 before this Court in Application No.4/2009. The petitioner stated before the Court that the matter has been compromised with the respondents. For this reason, he does not want to pursue the case and it be dismissed as withdrawn.

23. Ex. RW1/C is the copy of Application No.4/2009 which was moved before this Court by the applicant/petitioner against the respondents.

24. It is admitted case of the respondents that the services of the petitioner were engaged as a Munshi in the year 1984 and the same were firstly terminated on 30.12.1994. The termination order dated 30.12.1994 was challenged by the petitioner. The same was upset by the Court(s). Per Award dated 12.6.2001, the copy of which is Ex. PW1/A, the Id. Presiding Judge, Labour Court, Shimla directed the respondents to reinstate the petitioner in service. It was also ordered by the Court that the petitioner shall be entitled to the seniority and continuity in service. Further, the respondents were directed to pay back wages to the extent of 30% of the last pay drawn by the petitioner from the date of his retrenchment till reinstatement. Against the Award dated 12.6.2001, the respondents preferred Civil Writ Petition No.672/2001 before the Hon'ble High Court of Himachal Pradesh. The same was dismissed by the Hon'ble High Court vide judgment dated 05.9.2007, the copy of which is Ex. PW1/B.

25. In para No.6 of the petition, it has been pleaded that as per the orders of Labour Court, Shimla, the petitioner joined the service of the respondents on 01.10.2007 and performed his duties regularly. This fact has not been denied by the respondents in their reply. The version of the respondents is that the services of the petitioner were terminated w.e.f. 21.7.2008 as the post of Munshi was abolished. Notice of retrenchment dated 21st July, 2008, the copy of which is Ex. PW1/C, was given to the petitioner by the respondents.

26. Sh. S.S. Sidhu (RW2) in his cross-examination admitted that after the decision of the Writ Petition by the Hon'ble High Court the petitioner kept on attending to his duties regularly.

27. Section 25-F of the Act reads thus:

“25-F. **Conditions precedent to retrenchment of workmen.**- No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—

- (a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice:
- (b) the workman has been paid, at the time of retrenchment compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months; and
- (c) notice in the prescribed manner is served on the appropriate Government or such authority as may be specified by the appropriate Government by notification in the Official Gazette.”

28. There is nothing on the record to show that one month's notice in writing indicating the reasons for retrenchment was served upon the petitioner by the respondents. Further, there is nothing on the file to suggest that the workman (petitioner) was paid the retrenchment compensation etc. The provisions of Section 25-F of the Act have not been complied with by the respondents. The termination of the petitioner is thus illegal and unjustified.

29. The assertion of the respondents that the petitioner refused to receive the retrenchment notice and compensation etc. in the presence of S/Sh. Manohar Lal, Tinku Singh and Goldy does not appear to be true as none of them has been examined. Since material witnesses have been withheld by the respondents an adverse inference under Section 114 (g) of the Indian Evidence Act has to be drawn against them.

30. So far as the order dated 20.10.2010, the copy of which is Ex. PW1/E, passed by this Court in Application No.4/2009 is concerned, I will like to say that only the execution of the earlier Award preferred by the petitioner was satisfied. The receipt Ex. PW1/F was issued by the Id. counsel for the petitioner being full and final payment and settlement of the case/execution/application No.4/2009 only. There was no reason or occasion for the Id. counsel for the petitioner to receive Rs.32,325/- being full and final settlement of the claim (including the retrenchment in question) particularly when Ex. PW1/C i.e. the copy of the notice dated 21.7.2008 suggests that the respondents had forwarded a cheque worth Rs.53,460/- as one month's notice pay and compensation to the petitioner.

31. That being so, I have no hesitation to conclude that the petitioner has a cause of action. His retrenchment dated 21.7.2008 ordered by the respondents is unlawful.

32. While deposing in the Court as PW1, the petitioner has given his age as 57 years. It does not appeal to a reasonable mind that a person like the petitioner will sit at home during the period he is/was out of the service. The petitioner has failed to discharge the initial onus that during the period of his forced idleness, he was not gainfully employed. He is, thus, not entitled to the back wages.

33. These issues are decided in favour of the petitioner and against the respondents.

RELIEF (ISSUE NO.3)

34. As a sequel to my findings on the issues No.1 and 2, the instant claim petition succeeds in part and the same is partly allowed. The retrenchment of the petitioner is set aside and quashed. The respondents are directed to re-engage the petitioner forthwith (if he has not attained the age of superannuation). He shall be entitled to the seniority and continuity in service from the date of his illegal termination except back wages. Parties to bear their own costs.

35. The reference is answered in the aforesaid terms.

36. A copy of this Award be sent to the appropriate Government for publication in the official gazette.

37. File after due completion be consigned to the Record Room. Announced in the open Court today this 21st day of July, 2012.

(RAJAN GUPTA)
*Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Dharamshala, H.P.*

IN THE COURT OF RAJAN GUPTA, PRESIDING JUDGE, LABOUR
COURT-CUM-INDUSTRIAL TRIBUNAL, DHARAMSHALA, H.P.

Ref No. : 78/2011

Date of Institution : 25.6.2011

Date of Decision : 03.9.2012

Shri Bhag Mal s/o Shri Rattu Ram, r/o Village & P.O. Deot (Chhota Bhangal), Tehsil
Bajjnath, District Kangra, H.P. *..Petitioner.*

Versus

The Executive Engineer, H.P.P.W.D. Division, Salooni, District Chamba, H.P.
..Respondent.

Reference under Section 10 (1) of the Industrial Disputes Act, 1947.

For the Petitioner : Sh.T.R. Bhardwaj, AR

For the Respondent : Sh. Sanjeev Katoch, Dy. D.A.

AWARD

The below given reference has been received from the appropriate Government for adjudication:

“Whether the verbal termination of services of Shri Bhag Mal s/o Shri Rattu Ram by the Executive Engineer, H.P.P.W.D. Division, Salooni, District Chamba, H.P. w.e.f. 01.10.1999 (Dispute referred keeping in view the order dated 22.03.2007 of Himachal Pradesh State Administrative Tribunal in O.A. No.493/2000 filed by the above named worker) without serving notice, without holding enquiry and without complying the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, to what wages, service benefits and relief the above named workman is entitled to?”

2. The case of the petitioner (as set out in the statement of claim/demand) is that as per an office order issued by the SE, HPPWD, Dalhousie he was appointed as junior draftsman on contract basis in the office of the Executive Engineer, H.P.P.W.D. Salooni, District Chamba. He was required to join the duties on or before 03.2.1995. Due to unwarranted reasons, he (petitioner) wrote a letter to the respondent expressing his inability to join on or before the due date i.e. 03.2.1995. The respondent then extended the period of joining up-to 28.2.1995 and he (petitioner) joined the office of Executive Engineer, H.P.P.W.D., Salooni Division on 23.2.1995. His services were engaged on contractual basis on payment of the monthly emoluments of Rs.2600/-. He worked continuously as a junior draftsman up-to 23.2.1996. On the completion of one year, the contract period was regularly extended by the respondent from time to time up-to 30.9.1999. The first, second and third extensions of the contract were accorded by the respondent for one year each. Suddenly, after the completion of the third extension of one year contract period, the 4th extension of the contract was given by the respondent up-to 30.6.1999. The 5th and last extension was accorded by the respondent till 30.9.1999. In this way, he (petitioner) availed five extensions of the contract up-to 30.9.1999. The extensions were given by the respondent unilaterally. He (petitioner) never requested for the extension of the contract period. From 23.2.1995 to 30.9.1999, he served the respondent/department continuously without any break. On 30th September, 1999 when the last extension/term of the contract came to an end, the then Executive Engineer, H.P.P.W.D., Division Salooni verbally terminated his (petitioner's) services and asked him not to attend the office in future. Since the Executive Engineer was not his (petitioner's) appointing authority, the oral termination order passed by him is illegal. The post of junior draftsman is still lying vacant at Salooni. He served the respondent for almost four years and seven months. He had completed 240 days of work in each and every calendar year of his employment as well as in a block of 12 calendar months preceding the date of his retrenchment. His services have been disengaged in an illegal and arbitrary manner. The termination order dated 30.9.1999 has put him on the verge of starvation. He performed his duties upto 30.9.1999 with utmost sincerity, care and caution. No complaint was received against him from any quarter by the respondent. In the year 2000, he (petitioner) preferred Original Application No.493/2000 before the Hon'ble Himachal Pradesh Administrative Tribunal against the order of his illegal termination. The said original application was withdrawn by him, in view of the objection raised by the respondent that the matter is covered under the Industrial Disputes Act, 1947 ('the Act' for short). While seeking the permission to withdraw the original application, he (petitioner) also sought liberty of the Hon'ble Administrative Tribunal to approach the appropriate Court/Forum for the redressal of his grievances. Before the termination of his services, neither any notice was given to him nor the retrenchment compensation was paid. The persons who are/were similarly situated and junior to him (petitioner) were retained in service by the respondent. His services have been dispensed with without assigning any reason. The respondent has failed to adhere to the principle of 'last come first go'. The persons junior to him (petitioner) are still serving the respondent/department and their services have been regularized. He belongs to the poor strata of the society and has no other source of income. Shri Hukam Singh (Junior Draftsman) who is/was similarly situated is still working

with the respondent. The act and conduct of the respondent is highly illegal and unjustified. The same is also violative of the provisions of Sections 25-B, 25-F, 25-G and 25-H of the Act. As such, he (petitioner) prays that his termination be set aside. The respondent be directed to re-engage him in service with all consequential benefits including the seniority, continuity in service and payment of back wages etc.

3. On notice, the respondent appeared. He filed detailed reply controverting the averments made in the petition/statement of claim. Preliminary objections have been raised to the effect that the claim petition is not maintainable since no legal or fundamental right of the petitioner has been infringed. The petitioner was appointed on contract basis against the civil post of junior draftsman in the year 1995 on payment of the consolidated sum of Rs.2600/- per month vide appointment letter dated 27.1.1995 issued by SE, HPPWD, Dalhousie. The said post requires the use of special knowledge regarding the preparation of plans and estimates. The post which the petitioner was holding is governed by the statutory service rules framed under the Constitution of India. The petitioner is not covered under the definition of a 'workman' as provided in the Act. The petition is bad on account of delay and laches on the part of the petitioner. He has misrepresented himself and has approached the Court by concealing the material facts. The petitioner is estopped from raking the industrial dispute by his act and conduct.

On merits, it has been owned that the services of the petitioner were engaged as a junior draftsman on contract basis on payment of the monthly emoluments of Rs.2600/- and he joined the service on 23.2.1995. The fact that the contract period of the petitioner was extended from time to time up-to 30.9.1999 stands admitted. The appointment letter/order of the petitioner is annexure R-I. His mandays chart is annexure R-II. The petitioner was given the time to join the service in the office of the Executive Engineer, HPPWD, Division Salooni up-to 31.1.1995 as per the appointment letter/order dated 27.1.1995. Since the petitioner failed to join the duties, the joining time was extended up-to 28.2.1995 in accordance with the letter dated 22.2.1995 (annexure R-III) issued by the SE, HPPWD. The petitioner joined the service on 23.2.1995. His engagement was purely on contract basis on payment of the fixed monthly salary. On the expiry of the contract period of one year on 27.2.1996, the extension was accorded from time to time up-to 31.3.2001. In spite of the extensions continuously granted by the Government, the petitioner left the job of his own on 01.10.1999, and thereafter, he never resumed his duties in the office of the Executive Engineer, HPPWD Salooni for regular engagement. The services of the petitioner were not terminated as alleged. When the extension of contract period from competent authority was available, the question of the termination of the services of the petitioner does not arise. It has been admitted that the petitioner had preferred Original Application No.493/2000 before the erstwhile Hon'ble Himachal Pradesh Administrative Tribunal. Such original application was decided by the Hon'ble Administrative Tribunal vide judgment dated 01.8.2006. The original application was dismissed by the Hon'ble Administrative Tribunal for non appearance of the applicant/petitioner. Subsequently, per order dated 22.3.2007, the Hon'ble Administrative Tribunal granted the liberty to the applicant/petitioner to approach the appropriate Court/Forum under the Act. The demand notice was sent by the petitioner three years after passing of the order dated 22.3.2007 by the Hon'ble Tribunal. The lapse of time has caused fading of the dispute. The delay on the part of the petitioner reveals that he is/was not interested to do the job. The services of the petitioner cannot be reinstated now at a belated stage as the contract period elapsed on 31.3.2001. A false petition has been instituted by the petitioner. Infact, he never turned up w.e.f. 01.10.1999 to discharge his duties despite the conveying of continuous extensions up-to 31.3.2001 accorded by the Government from time to time. Now the work and funds are not available. Since the petitioner abandoned the job of his own, he is not entitled to any protection under the Act. The petitioner was a contractual Class-III appointee holding the civil post. No direct recruitment of junior draftsman has been made by the Executive Engineer, HPPWD, Salooni Division. The persons, who qualified the examination conducted by the Himachal Pradesh Subordinate Service Selection Board, were appointed as junior

draftsmen as per the sanction conveyed by the competent authority. The petitioner was not interested to work as a junior draftsman on contract basis despite the extensions granted up-to 31.3.2001 and left the service voluntarily. So far as Shri Hukam Singh is concerned, he was appointed as a junior draftsman on contract basis alongwith the petitioner. His contract period was also extended from time to time alongwith the petitioner. Shri Hukam Singh continued serving the department. As per the policy of the Government, his services were regularized in the cadre of the junior draftsman. The petitioner is privately employed. He also works as an agriculturist to earn his livelihood. The petitioner is not entitled to any relief. The petition is meritless.

In these circumstances, the respondent prays that the petition in hand be dismissed with costs.

4. In the rejoinder, the petitioner has reiterated the contents of the petition/statement of claim and refuted the objections put forth by the respondent. It has been maintained that the seniority list produced by the respondent shows that many draftsmen have been appointed after his engagement. Persons shown at serial No. 93 onwards in the provisional seniority list were appointed on 01.4.1995 and thereafter. Their services have been regularized by the respondent. His (petitioner's) services were disengaged without any rhyme or reason. Many persons who were similarly situated and junior to him have been retained and regularized in service by the respondent. Approximately, 133 persons junior to him have been retained in service and regularized. Before the termination of his services, no notice was served upon him. Even the retrenchment compensation was not paid. Neither he was charge sheeted nor an inquiry was conducted against him. He was not given an opportunity of personal hearing. Once the juniors have been retained in service by the respondent, he (petitioner) has the preferential right of employment. He had been pursuing the matter before the respondent. The latter kept on alluring and assuring by saying that his case will be considered. Till date nothing has been done. The representations were also made by him time and again, but in vain. Despite the extensions having been given, he was not allowed to join his duties. No notice was issued by the respondent calling upon him to explain as to why he (petitioner) is not coming forward to resume the work. The respondent did not allow him to work intentionally and willfully. His services were terminated by the respondent by a verbal order.

5. Vide order dated 05.12.2011, following issues were struck by my Id. Predecessor:—

1. Whether the disengagement of the petitioner w.e.f. 1.10.1999 is violative of the provisions of Sections 25-F, 25-G and 25-H of the Industrial Disputes Act as alleged. If so, to what relief the petitioner is entitled to? ..OPP.
2. Whether the claim petition is not maintainable as alleged. If so, to what effect? ..OPR.
3. Whether the reference suffers from the vice of delay and laches as alleged. If so, to what effect? ..OPR.
4. Relief.

6. I have heard the Id. counsel/AR for the parties and have gone through the case file. In support of his arguments, the Id. AR for the petitioner has cited the below mentioned rulings:—

- i. Himachal Pradesh State Electricity Board versus Shri Charan Dass, 2012 (1) Him L.R. (DB) 320.
- ii. Anoop Sharma versus Executive Engineer, Public Health Division No.1, Panipat (Haryana), (2010) 5 Supreme Court Cases 497.

- iii Suresh Kumar versus State of Himachal Pradesh and others, 2010 (3) Him. L.R. 1394.
- iv. Central Bank of India versus S. Satyam and Others, (1996) 5 Supreme Court Cases 419.
- v. The Executive Engineer, HPPWD, Dharampur Division (in all cases) versus Nihal Chand, 2010 (Sup) Him. L.R. DB 2156.
- vi. State of H.P. and another versus Kapil Dev, 2011 (3) Him. L.R. (DB) 1145.

I have scanned all these authorities. With humility, I feel it apposite to mention here that they turned on their own facts and do not hold good in view of the facts and circumstances of the present lis.

7. For the reasons detailed here under, my findings on the above issues are as follows:-

Issue No.1 : No
 Issue No.2 : Yes
 Issue No.3 : Not pressed
 Relief. : Claim petition dismissed vide operative portion of the Award

Reasons for findings

Issues No. 1 and 2

8. Being interlinked and to avoid the repetition, both these issues are taken up together for discussion and disposal.

9. The petitioner Shri Bhag Mal stepped into the witness box as PW1. In his affidavit Ex. PW1/A submitted under Order 18 Rule 4 CPC, he reiterated on oath the contents of the petition/statement of claim in its entirety. He also placed on the record the documents Exts. PW1/B and C. Ex. PW1/B is the copy of a letter dated 22.2.1995 written by the SE, HPPWD to the petitioner vide which the time for joining the post of junior draftsman in Salooni Division of HPPWD was extended up-to 28.2.1995 pursuant to an application dated 18.2.1995 submitted by the petitioner. Ex. PW1/C is the copy of the office order dated 27.1.1995 issued by the SE, HPPWD, Dalhousie regarding the appointment of the petitioner as junior draftsman on contract basis for a period of one year from the date of joining the post on payment of the consolidated emoluments of Rs.2600/- each month.

In the cross-examination, he admitted that he had joined the service after admitting the terms of appointment as contained in the office order Ex. PW1/C. He also admitted that he was appointed for one year only at the first instance and, thereafter, he was given the extension from time to time. He denied that he left the service of his own w.e.f. 30.9.1999. He feigned ignorance about the fact that the respondent/department had extended his term of appointment up-to 31.3.2001. Self stated, he did not receive any letter in this regard. He had instituted O.A. No.493/2000 before the Hon'ble Administrative Tribunal regarding his termination in the month of September, 1999. He denied that the respondent had disclosed before the Hon'ble Administrative Tribunal that the extensions have been issued in his favour from time to time. He admitted that once his original application was dismissed by the Hon'ble Tribunal due to the non appearance. The instant industrial dispute was raised by him per demand notice dated 13.8.2010, the copy of which is Ex.R2. He admitted that Shri Hukam Singh was also appointed as a junior draftsman like

him. The sanction orders regarding Shri Hukam Singh used to come alongwith his (PW1's) orders. He does not know that Shri Hukam Singh kept on serving the respondent/department after 30.9.1999 in accordance with the sanction order(s). He is not aware of the fact that even after 30.9.1999 the joint sanction regarding his employment and the employment of Shri Hukam Singh used to be given by the competent authority. He refuted that Shri Hukam Singh had told him that the sanction/extension has been given in his favour by the department and he (petitioner) should join the service. He admitted that he and Shri Hukam Singh were appointed against Class-III posts in Salooni Division only. He does not know that the services of Shri Hukam Singh were regularized by the Government on completion of the requisite days of work. He denied that he left the service as the respondent was paying him only Rs.2600/- per month and he was earning more by serving privately. Further, he denied that no work is available for him with the respondent/department after 31.3.2001. Volunteered, the post is lying vacant at present.

10. Conversely, Shri A.K. Abrol, Executive Engineer, HPPWD Division Salooni testified as RW1. He corroborated on oath the contents of the reply filed by the respondent.

11. In the cross-examination, he denied that the services of the petitioner were disengaged w.e.f. 01.10.1999. He admitted that no notice was served upon the petitioner calling upon him to resume his duties after he left the service. Neither the petitioner was charge sheeted nor an inquiry was conducted against him. He admitted that the junior draftsmen, who were appointed on contract basis have been regularized as per the policy of the Government. Self stated, the petitioner did not fulfill the criteria of eight years of service. He admitted that the persons whose names figure at serial No.162 to 226 of the seniority list have been newly appointed as junior draftsmen by the department. Volunteered, their services have been regularized as they were the daily wagers. At the time of engaging new/fresh hands or regularizing the services of the daily wagers, an opportunity of re-employment was not afforded to the petitioner. He admitted that in the year 2011, one Shri Tara Chand was appointed as junior draftsman on contract basis in Salooni Division. He also admitted that the post of the petitioner was lying vacant and the same was filled in the year 2011 on the engagement of Sh. Tara Chand on contract basis. At the time of appointment of Shri Tara Chand, no notice of reemployment was given to the petitioner. He admitted that as per the sanctioned strength even today one post of junior draftsman is lying vacant in Salooni Division of the HPPWD. The copies of the extensions orders were provided to the petitioner from time to time. He denied that the petitioner did not abandon the job and he has given a phoney statement.

12. RW2 is Shri Gandhi Ram, Superintendent in the office of the Executive Engineer, HPPWD Division, Salooni. He brought the record relating to the service conditions of the petitioner and the despatch register as well as proved the documents Exs. RW2/A to F.

13. In the cross-examination, he admitted that no receipt is there in the record as the letters were sent to the petitioner by Ordinary Dak. The postal receipt of the registered letter Ex. RW2/D is also not there in the record.

14. Ex. R1 is the copy of the order dated 22.3.2007 passed by the Hon'ble Administrative Tribunal in O.A. No.493/2000 titled as Shri Bhag Mal vs. the State of Himachal Pradesh and others. Its perusal discloses that the original application was withdrawn by the petitioner with liberty to seek the remedy before the appropriate Court/Forum.

15. Ex. RW1/A is the copy of the office order dated 27.1.1995. It corresponds to Ex. PW1/C.

16. Ex. RW1/B is the mandays chart relating to the petitioner.

17. Exts. RW1/C1 to C4 and Exts. RW1/D1 to D5 are the copies of the various office orders issued by the respondent. Vide these office orders the term of appointment of the petitioner and his companion Shri Hukam Singh (junior draftsman) was extended from time to time up-to 31.3.2001. Copies of these office orders were also endorsed to the petitioner.

18. Ex. RW1/E1 is the copy of the order dated August 1, 2006 pronounced by the Hon'ble Administrative Tribunal in O.A. No.493/2000. It clarifies that the original application preferred by the applicant/petitioner was dismissed in default due to his non appearance.

19. Ex. RW1/E2 is the copy of the order dated 22.3.2007 passed by the Hon'ble Administrative Tribunal in the above numbered original application. It corresponds to Ex. R1.

20. Ex. RW1/F is the provisional seniority list of the junior draftsmen as it stood on 31.3.2008 relating to the office of the respondent.

21. Ex. RW1/G1 is the copy of the office order dated 27.1.1995 with respect to the appointment of Shri Hukam Singh as junior draftsman for one year on payment of the consolidated monthly emoluments @ Rs.2600/- issued by the SE, HPPWD, Dalhousie.

22. Ex. RW1/G2 is the copy of the office order dated 31.5.2005 issued by the respondent. It unfolds that the services of Shri Hukam Singh (junior draftsman) were regularized.

23. Ex. RW2/A to C are the copies of the despatch registers of the office of the respondent. They reveal that the office orders regarding the extension of term of the petitioner were forwarded to him by the office of the Executive Engineer, HPPWD, Salooni from time to time after 30.9.1999.

24. Ex. RW2/D is the copy of the letter dated 01.2.2001 which was sent under registered cover by the Executive Engineer, HPPWD Salooni Division to the petitioner. As per this letter, the Executive Engineer requested the petitioner to attend to his duties in view of the extensions received from the head office and conveyed to him (petitioner). The contents of this letter depict that the Executive Engineer had requested the petitioner to resume the work since he (petitioner) was willfully absent from government duty.

25. Ex. RW2/E is the copy of the office order dated 10.9.2010. It clarifies that Shri Tara Singh was appointed as junior draftsman on contract basis pursuant to his selection as such by the Himachal Pradesh Subordinate Services Selection Board, Hamirpur.

26. Ex. RW2/F is the copy of the joining report dated 27.9.2010 submitted by Shri Tara Singh in the office of the Executive Engineer, HPPWD, Division Salooni.

27. This is the total evidence on the record.

28. It is the admitted case of the parties that the services of the petitioner were initially engaged for one year as junior draftsman on contract basis on payment of the consolidated monthly emoluments of Rs.2600/- to him per office order dated 27.1.1995, the copies of which are Ex. PW1/C and RW1/A. There is no denial of the fact that the term of the appointment of the petitioner on contractual basis was extended from time to time up-to 31.3.2001 and he served the respondent/department only up-to 30.9.1999. Admittedly, the petitioner and Shri Hukam Singh were appointed as junior draftsmen by the respondent on the same terms and conditions on one date i.e. 27.1.1995. Only one/joint sanction with regard to the extension of their services used to be received from the competent authority. Shri Hukam Singh continued serving the respondent/department even after 30.9.1999.

29. The version of the petitioner is that his services were terminated by the respondent w.e.f. 01.10.1999 by a verbal order. While denying the said fact, the respondent has pleaded that the petitioner abandoned the job of his own because of which he is not entitled to the re-employment or any protection under the Act.

30. To my mind, the act and conduct of the petitioner coupled with the evidence available on the record go to show that he (petitioner) had in fact left the job of his own accord and free volition. As already mentioned, the term of appointment of the petitioner and Shri Hukam Singh on contract basis was extended time and again by the respondent up-to 31.3.2001. Only one office order used to be issued by the respondent regarding the extension of the period of service of the petitioner and Shri Hukam Singh. Since the period of contractual appointment of the petitioner was extended time and again up-to 31.3.2001, in my considered opinion, there was no reason or occasion for the Executive Engineer, HPPWD, Salooni to verbally ask the petitioner on 30.9.1999 not to attend the office in future. It is not the case of the petitioner that the Executive Engineer had some enmity with him or wanted to adjust someone else in his (petitioner's) place. Therefore, it does not appeal to a reasonable mind that the Executive Engineer, HPPWD, Salooni will verbally ask the petitioner on 30.9.1999 not to attend the office in future, particularly when the petitioner was appointed by his (Executive Engineer's) superior i.e. the SE, HPPWD and the extensions were being accorded by him (SE, HPPWD) from time to time.

31. The copies of the various office orders have been exhibited on the file as Exts. RW1/C1 to C4 and Exts. RW1/D1 to D5. Their perusal unfolds that the office orders were also duly forwarded to the petitioner for his information and strict compliance. The fact that the copies of the office orders were sent to the petitioner from time to time bringing to his notice that the terms of his engagement stands extended also finds support from Exts. RW2/A to C, the copies of the despatch registers. Not only this, the copy of a letter dated 01.2.2001 (Ex. RW2/D) is there on the record. It shows that the said letter was sent to the petitioner by the Executive Engineer, HPPWD, Salooni under registered cover. As per this letter the Executive Engineer requested the petitioner to attend to his duties in view of the extensions received from the head office since he (petitioner) was willfully absent from Government duty. The assertion of the petitioner that the copies of the office orders conveying the extension or the letter Ex. RW2/D were not received by him does not appear to be true since as per Section 114 (e) of the Indian Evidence Act, 1872, all official acts are presumed to be regularly performed. Even a letter posted at the correct address is presumed to have reached its destination till proved otherwise. Moreover, the office orders on which the endorsements were made regarding sending their copies to the petitioner and the despatch registers the copies of which are Exts. RW2/A to C saw the light of the day when no dispute was there between the parties. For this reason, the evidence adduced by the respondent has great evidentiary value. At the cost of reiteration, I will like to add that it is not the case of the petitioner that the SE, HPPWD or the Executive Engineer, HPPWD Division, Salooni were inimical to him or wanted to adjust someone else in his place. Further, it is not the case of the petitioner that the record produced by the respondent is forged and fabricated.

32. At the time of the cross-examination of Shri A.K. Abrol (RW1) a question was put in the suggestive form to him by the Id. AR for the petitioner which reads thus:-

“यह ठीक है कि जब वादी ने काम छोड़ा तो उसे काम पर वापिस आने बारे कोई Notice न दिया गया था”

This admission on the part of the petitioner goes to show that he had left the service voluntarily.

33. In the rejoinder, the petitioner has pleaded that various representations were made by him to the respondent time and again but he was not allowed to join the duties. The copies of the representations, if any, have not been placed on the record. Since material evidence/documents

have been withheld by the petitioner, an adverse inference under Section 114 (g) of the Indian Evidence Act has to be drawn against him. Otherwise also if the petitioner was not allowed to join the duties by the Executive Engineer, HPPWD, Salooni (as alleged) then why he (petitioner) did not submit his joining report in writing in the office of the Executive Engineer or the office of the SE, HPPWD being the appointing authority? The reasons to that effect being obscure go to show that the petitioner is telling nothing else except bundle of lies.

34. The alleged termination order dated 01.10.1999 was challenged by the petitioner before the erstwhile Hon'ble Administrative Tribunal by instituting original application No.493/2000. Such application was initially dismissed in default on August 1, 2006 by the Hon'ble Administrative Tribunal as is evident from the copy of the order Ex. RW1/E1. Subsequently, the petitioner got the original application restored and the same was dismissed as withdrawn vide order dated 22.3.2007 (Ex.RW1/E2) with liberty to seek remedy before the appropriate Court/Forum. After the withdrawal of the original application, the industrial dispute was raised by the petitioner per demand notice dated 13.8.2010, the copy of which is Ex. R2. There is nothing on the file to suggest as to why the petitioner remained tight lipped and complacent about his rights for more than three years after the withdrawal of the original application from the Hon'ble Administrative Tribunal. Acute delay in raking up the industrial dispute by the petitioner also speaks volumes about his truthfulness and veracity.

35. There is satiable evidence on the file to show that the petitioner abandoned the job of his own accord and free volition. He did not join his duties inspite of the intimations sent to him time and again. It appears to me that the present industrial dispute has been raised by the petitioner at a belated stage to derive the undue benefit of regularization of his services etc. since the services of his companion Shri Hukam Singh have already been regularized. The avarice of the petitioner to grab the government job and money has forced him to prefer a totally false and baseless claim.

36. As the petitioner had abandoned the job, he is not entitled to any protection under the Act. The claim petition instituted by him is not maintainable. He is not entitled to any relief.

37. These issues are decided against the petitioner and in favour of the respondent.

Issue no. 3

38. Not pressed.

Relief (issue no. 4)

39. As a sequel to my findings on the issues No.1 and 2, the instant claim petition being meritless not maintainable and malafide fails. It is, therefore, dismissed with costs quantified as Rs.3000/-.

40. The reference is answered in the aforesaid terms.

41. A copy of this Award be sent to the appropriate Government for publication in the official gazette.

42. File after due completion be consigned to the Record Room. Announced in the open Court today this 3rd day of September, 2012.

RAJAN GUPTA,
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Dharamshala, H.P.

IN THE COURT OF RAJAN GUPTA, PRESIDING JUDGE, LABOUR
COURT-CUM-INDUSTRIAL TRIBUNAL, DHARAMSHALA, H.P.

Ref No. : 493/2009

Date of Institution : 20.11.2009

Date of Decision : 03.9.2012

Shri Daulat Ram s/o Shri Singh Ram, r/o Village Sulancha, P.O. Bhanjraru, Tehsil Churah,
Distt. Chamba, H.P. . . *Petitioner.*

Versus

The Block Development Officer, Tissa, Distt. Chamba, H.P. . . *Respondent.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947.

For the Petitioner : Sh. N. L. Kaundal, AR
: Sh. Vijay Kaundal, Adv.
For the Respondent : Sh. Sanjeev Katoch, Dy. D. A.

AWARD

The below given reference has been received from the appropriate Government for adjudication:

“Whether termination of the services of Sh. Daulat Ram s/o Shri Singh Ram by the Block Development Officer, Tissa, Distt. Chamba w.e.f. 01.11.2007 without complying the provisions of the Industrial Disputes Act, 1947, is proper and justified? If not, what relief of service benefits the above aggrieved workman is entitled to?”

2. The case of the petitioner (as set out in the statement of claim/demand) is that his services were engaged by the respondent as a daily wager on 15th May, 2004. He worked continuously for 1200 days up-to 01.11.2007. On the said date, his services were terminated by the respondent by a verbal order. On 5th February, 2010 a new workman namely Shri Ramesh Kumar s/o Sh. Moti Ram, Village Sulana, P.O. Bhanjraru, Tehsil Churah, Distt. Chamba, H.P. has been appointed by the respondent. On 15th February, 2010, he (petitioner) met the respondent for re-engagement. The latter remarked that he is paying the wages to him (petitioner) from his own pocket as no sanction has been received from the Government.

As such, he (petitioner) prays that the justice be done by ordering his re-engagement etc.

3. On notice, the respondent appeared. He filed detailed reply controverting the averments made in the petition/statement of claim. Preliminary objections have been raised to the effect that the claim petition is not maintainable since no legal or fundamental right of the petitioner has been infringed. The petition is bad on account of delay and laches on the part of the petitioner.

On merits, it has been pleaded that the office of BDO, Tissa (respondent) was gutted in a fire incident which took place on 28.2.2010. Resultantly, the entire record of the office was destroyed. An FIR in this regard was got registered. He (respondent) has reconstructed the record relating to service conditions of the petitioner from various offices. As per the record, the services of the petitioner were initially engaged as a contingent paid part time sweeper for two hours w.e.f. May, 2004 @ Rs.8-10 per hour vide sanction No. RDD-II. B (1) 5.83, dated 19th April, 2004. The

engagement of the part time sweeper as per the sanction orders was subject to the condition that the appointment shall be coterminous with the appointment and joining of a regular employee. The petitioner was duly made aware of the said condition of engagement at the time of his employment. The engagement of the petitioner as per the sanction orders of contingent paid worker continued up-to 4th October, 2007. On that date i.e. 04.10.2007 one Smt. Hansi Devi d/o Shri Jai Sain joined his (respondent's) office as Sweeper-cum-Chowkidar pursuant to the office order No. RDD.11.B(15)3/06-1712-1722, dated 26th September, 2007 issued by the Director, Department of Rural Development, Himachal Pradesh, Shimla. After the joining of a regular employee (Smt. Hansi Devi) no work was available with him (respondent) to continue with the engagement of the petitioner. Since the record has been destroyed, he (respondent) is not in a position to submit the actual mandays relating to the petitioner. Shri Ramesh Kumar s/o Shri Moti Ram has not been engaged by him (respondent) on account of any budgetary provision. The payment is being made to him after collecting the money from the employees of the office. Shri Ramesh Kumar has been kept by the employees of the office for small errands which he performs for them. The petition is meritless.

In these circumstances, the respondent prays that the petition in hand be dismissed.

4. In the rejoinder, the petitioner has reiterated the contents of the petition/statement of claim and refuted the objections put forth by the respondent. It has been pleaded that at the time of engaging his services as a contingent paid worker no appointment letter was issued in his name by the respondent. He was engaged by the respondent for eight hours daily and continuously worked up-to 31.10.2007. The State Government has enhanced the working hours of part time employees from 2 to 4 hours in the year 1999. Therefore, the assertion of the respondent that the services of the petitioner were engaged as a part time sweeper only for two hours daily is wrong. From the date of his initial engagement to 31.10.2007, he (petitioner) discharged the duties eight hours per day. However, he was paid the wages for only two hours daily. He is entitled to the balance wages as per the minimum wages fixed by the Government from time to time. No terms and conditions of appointment were settled at the time of his engagement. It was not conveyed to him that with the appointment of a regular employee his services will stand automatically terminated. He worked with the respondent from 15.5.2004 to 31.10.2007 without any break. He had completed more than 240 days of work in each and every calendar year of his engagement as well as in a block of 12 calendar months preceding the date of his termination i.e. 01.11.2007. At the time of termination of his services no show cause notice was served upon him. Neither he was charge-sheeted nor he was informed about the misconduct if any. One month pay in lieu of the notice period and retrenchment compensation as per Section 25-F of the Industrial Disputes Act, 1947 ('the Act' for short) were not paid to him. At the time of the engagement of Sh. Ramesh Kumar an opportunity of re-employment was not afforded to him (petitioner) as per Section 25-H of the Act. The respondent has not submitted the seniority list of part time workers. The Government had given the sanction to engage contingent paid workers including him (petitioner) from 01.3.2007 to 28.2.2008. Despite this fact, his services were unlawfully terminated *w.e.f.* 01.11.2007 in violation of the principles of natural justice.

5. Per order dated 24/10/2011, following issues were struck by my Id. Predecessor:-

1. Whether the disengagement of the petitioner *w.e.f.* 1.11.2007 is violative of the provisions of Industrial Disputes Act, including Section 25-F, 25-G and 25-H thereof as alleged. If so, to what relief the petitioner is entitled to? . . .OPP.
2. Whether the reference is not maintainable as alleged. If so, to what effect?. . . OPR.
3. Whether the reference is hit by the vice of delay and laches as alleged. If so, to what effect? . . .OPR.
4. Relief.

6. I have heard the ld. counsel/AR for the parties and have gone through the case file.

7. For the reasons detailed here under, my findings on the above issues are as follows:-

Issue No. 1 : No

Issue No. 2 : Yes

Issue No. 3 : Not pressed

Relief. : Claim petition dismissed vide operative portion of the Award.

Reasons for findings

Issues No. 1 and 2

8. Being interlinked and to avoid the repetition, both these issues are taken up together for discussion and disposal.

9. The petitioner Shri Daulat Ram stepped into the witness box as PW1.

In his affidavit Ex. PW1/A submitted under Order 18 Rule 4 CPC, he reiterated on oath the contents of the petition/statement of claim in its entirety.

In the cross-examination, he admitted that the office of the respondent was destroyed in a fire which took place in the month of February, 2010. He denied that his services were engaged as a contingent paid worker for two hours daily for the cleanliness work. He also denied that at the time of his engagement, it was communicated to him that as and when a regular employee joins, his services will be dispensed with. He admitted that in the month of September, 2007, Smt. Hansi Devi joined as a regular sweeper-cum-chowkidar in the office of the respondent on her transfer. He denied that after the joining of Smt. Hansi Devi no work of sweeper was available for him because of which his services were disengaged. He cannot produce any record to show that he had worked for more than two hours every day. He feigned ignorance about the fact that Shri Ramesh Kumar is being paid the wages by the employees of the office of the respondent from their own pocket and not from the state exchequer. He denied that he is not entitled to re-employment etc.

10. Conversely, Sh. Amit Mehra, Assistant Commissioner (Development), Tissa (respondent) testified as RW1. He corroborated on oath the contents of the reply filed by him.

In the cross-examination, he admitted that the post of part time contingent paid safai karamchari was sanctioned by the department in the month of April, 2004. He admitted that in the sanction order Ex. RW1/B, it has nowhere been mentioned that the safai karamchari should be engaged for 2 to 4 hours daily.

No appointment letter was issued in the name of the petitioner at the time of his engagement. An affidavit was executed by the petitioner in his (respondent's) favour at the time of joining the service. He (RW1) has not brought that affidavit to the Court as the record has been destroyed. When the services of the petitioner were engaged, the terms and conditions of appointment were conveyed to him. Those terms and conditions were incorporated in the affidavit executed by the petitioner. He admitted that up-to the year 2007, the petitioner served only as a contingent paid/temporary worker. Self stated, a different selection process is adopted for appointment of a person against the permanent post. Smt. Hansi Devi has been transferred.

Presently, the post of safai karamchari in his (RW1's) office is lying vacant. He does not know that the petitioner served regularly from 15.5.2004 to 31.10.2007. He is not aware of the fact as to whether any notice was served upon the petitioner or not before his disengagement. He denied that the services of the petitioner were terminated in a wrongful manner and he has given a phoney statement.

11. Ex. RW1/A is the copy of the FIR No.21 of 2010 dated 1st March, 2010, which was registered in Police Station, Tissa. It discloses that the office of the respondent and the record were destroyed in the fire.

12. Exts. RW1/B to E are the copies of various office orders issued by the Dy. Secretary, Rural Development, Government of Himachal Pradesh. As per these orders sanction was conveyed for appointment of a contingent paid/temporary sweeper in the office of the respondent from time to time i.e. 01.3.2004 to 28.2.2005, 01.3.2005 to 28.2.2006, 01.3.2006 to 28.2.2007 and 01.3.2007 to 28.2.2008.

13. Ex. RW1/F is the copy of the demand notice dated 19.5.2008 served by the petitioner upon the respondent.

14. Ex. RW1/G is the copy of the office order dated 9th September, 2007 issued by the Director, Rural Development Department, Government of Himachal Pradesh, Shimla. It unfolds that Smt. Hansi Devi was appointed as sweeper-cumchowkidar on regular basis pursuant to her transfer from Drang block to Tissa block.

15. Ex. RW1/H is the copy of the letter dated 4th October, 2007 written by the respondent to the Director, Rural Development Department, Government of Himachal Pradesh, Shimla. Vide this letter the respondent conveyed to the Director that Smt. Hansi Devi joined in his (respondent's) office as sweeper-cum-chowkidar on 03.10.2007 in the forenoon.

16. There is no denial of the fact that the services of the petitioner were engaged as a contingent paid part time sweeper by the respondent w.e.f. 15th May, 2004 and he worked continuously up-to 31.10.2007. The version of the petitioner that he used to work for four or 8 hours daily does not appear to be true as the same is not supported by any documentary evidence.

17. Perusal of the office orders, the copies of which are Exts. RW1/B to E clarifies that the sanction was accorded by his Excellency the Governor of Himachal Pradesh to engage a contingent paid part time sweeper in the office of the respondent from time to time i.e. 01.3.2004 to 28.2.2008. In the sanction orders, it was clearly mentioned that as and when the post is filled on the joining of a regular employee, the services of the contingent paid part time sweeper will come to an end automatically. The terms and conditions of appointment will be communicated to the contingent paid part time sweeper. It has come in the statement of the respondent (RW1) that as per the practice the terms and conditions of employment as per the office orders, were duly conveyed to the petitioner. The latter even furnished an affidavit to that effect in favour of the respondent. The terms and conditions of appointment were duly incorporated in the affidavit sworn by the petitioner.

18. The evidence available on the record clarifies that Smt. Hansi Devi a regular employee was posted as sweeper-cum-chowkidar in the office of the respondent. She joined the office of the respondent on 03.10.2007 in the forenoon, whereafter, the services of the petitioner were dispensed with as no work was available for him.

19. Taking into account the terms and conditions of the appointment as contained in the office orders Exts. RW1/B to E, I am at a loss to understand as to how and on what basis the petitioner is claiming that his services were engaged as a daily wager by the respondent. Even if, the post of the safai karamchari is lying vacant at present in the office of the respondent, he cannot be directed to re-engage the petitioner for the simple reason that the sanction of the competent authority is required to incur the expenditure from the State Exchequer which is not available.

20. It has come in the statement of the respondent (RW1) that for the appointment of a regular employee, selection process has to be followed. The petitioner cannot be appointed against a regular post without undergoing the said procedure/process.

21. It is not the case of the petitioner that any person junior to him has been retained in service by the respondent. So far as Sh. Ramesh Kumar s/o Sh. Moti Ram is concerned he is not an employee in the office of the respondent.

22. To my mind, the services of the petitioner were engaged as a contingent paid part time sweeper by the respondent as per the sanction accorded by the competent authority from time to time. He (petitioner) served the respondent as a stop-gap arrangement till the joining of the regular employee. On the joining of the regular employee namely Smt. Hansi Devi, the services of the petitioner automatically came to an end. Neither the petitioner is entitled to any protection under the Act nor the claim petition preferred by him is maintainable. The claim put forth by the petitioner is fallacious. No provision of the Act has been violated by the respondent. The petitioner is not entitled to any relief.

23. These issues are decided against the petitioner and in favour of the respondent.

Issue No. 3

24. Not pressed.

Relief (Issue No. 4)

25. As a sequel to my findings on the above issues, the instant claim petition being meritless and not maintainable fails. It is, therefore, dismissed. Parties to bear their own costs.

26. The reference is answered in the aforesaid terms.

27. A copy of this Award be sent to the appropriate Government for publication in the official gazette.

28. File after due completion be consigned to the Record Room.

Announced in the open Court today this 3rd day of September, 2012.

RAJAN GUPTA,
Presiding Judge,
Labour Court-cum-Industrial Tribunal,
Dharamshala, H.P.

IN THE COURT OF RAJAN GUPTA, PRESIDING JUDGE, LABOUR
COURT-CUM-INDUSTRIAL TRIBUNAL, DHARAMSHALA, H.P.

Ref No. : 499/2009

Date of Institution : 20.11.2009

Date of Decision : 01.8.2012

Shri Kailash Chand s/o Shri Rijhu Ram, r/o Village & P.O. Dradha, Tehsil & Distt. Chamba, H.P. . . *Petitioner.*

Versus

The Executive Engineer, IPH Division, Dalhousie, Distt. Chamba, H.P. . . *Respondent.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947.

For the Petitioner : Sh. T.R. Bhardwaj, AR

For the Respondent : Sh. Sanjeev Katoch, Dy. D.A.

AWARD

The below given reference has been received from the appropriate Government for adjudication:

“Whether termination of the services of Sh. Kailash Chand s/o Shri Rijhu Ram by The Executive Engineer, IPH Division, Dalhousie, Distt. Chamba, H.P. w.e.f. 26.11.2000 as alleged by worker, is proper and justified? If not, what amount of back wages, seniority, past service benefits and compensation the aggrieved workman is entitled to?”

2. The case of the petitioner (as set out in the statement of claim/demand) is that his services were engaged as a daily waged mason by the respondent in the month of January, 1996. He worked continuously as such under the respondent till 30th June, 1998 in I. & P.H. Sub Division, Banikhet, Division Dalhousie. He had completed more than 240 days of work in each and every calendar year of his employment. On 1st July, 1998, his services were illegally terminated by the respondent by passing a verbal order. He filed O.A. No.590/1999 before the Hon’ble Himachal Pradesh State Administrative Tribunal, Dharamshala Bench against the order of termination dated 1st July, 1998. Interim order dated 23.3.2000 was passed by the Hon’ble Tribunal directing the respondent to reengage him (petitioner). He was, accordingly, re-engaged by the respondent in the month of May, 2000 and worked continuously up-to the middle of November, 2000. During the pendency of O.A. No.590/1999 before the Hon’ble Tribunal, his services were once again terminated by the respondent in the middle of November, 2000 by a verbal order. Per order dated 18.3.2002, the original application was dismissed as withdrawn by the Hon’ble Tribunal with the direction to raise the dispute in the appropriate Court/Forum under the Industrial Disputes Act, 1947 (‘the Act’ for short). After passing of such order by the Hon’ble Tribunal, he (petitioner) raised the industrial dispute before the Conciliation Officer, Chamba through demand notice dated 17.7.2003. At the time of termination of his services on 01.7.1998 and, thereafter, in the middle of November, 2000, the persons junior to him were retained in service by the respondent. Neither any notice was served upon him (petitioner) nor the wages in lieu of the notice period were paid to him. Even no retrenchment compensation was paid. He (petitioner) never absented from work. During the period of his employment the respondent used to give him the fictional breaks so that he does not complete 240 days of work in a calendar year. The period in which he was not provided the

work by the respondent is required to be counted for the calculation of 240 days continuous service in each calendar year. The respondent has failed to adhere to the principle of 'last come first go'. New/fresh hands were engaged by the respondent. At the time of engaging the new workmen, an opportunity of re-employment was not given to him. He has spotless service record. He remained out of the service from 01.7.1998 to April, 2000. Now from November, 2000 till date, he is unemployed. The act and conduct of the respondent is mala fide, illegal and unjustified. The same is also violative of Sections 25-F, 25-G and 25-H of the Act.

As such, as is apparent from the prayer clause of the petition/statement of claim, the petitioner has claimed the following relief(s) in this case.

- “(I) The oral orders of retrenchment/termination of my services passed by the respondent w.e.f. 01.7.1998 at first time and w.e.f. mid of Nov., 2000 be set-aside being illegal, arbitrary and unjustified.
- (II) To direct the respondent to reinstate the services of petitioner with full back wages, seniority including continuity of services as the petitioner remained unemployed since the date of illegal retrenchment/termination of services.
- (III) To direct the respondent for the production of original record pertaining to the case of petitioner.
- (IV) To direct the respondent to re-engage petitioner on Muster Roll basis pending final decision of the case.
- (V) Any other relief as the Hon'ble Court may deem fit”.

3. On notice, the respondent appeared. He filed detailed reply controverting the averments made in the petition/statement of claim. Preliminary objections have been taken to the effect that the claim petition is not maintainable since no legal or fundamental right of the petitioner has been infringed. The petition is bad on account of delay and laches on the part of the petitioner. He is estopped from preferring the claim petition by his act and conduct.

On merits, it has been owned that the services of the petitioner were initially engaged as a daily rated mason in the month of January, 1996. He worked for 254 days in the year 1996, 239 ½ days in the year 1997, 135 days in the year 1998 and 196 days in the year 2000. Mandays chart of the petitioner is annexed as annexure R-I to the reply. The services of the petitioner were never terminated as alleged. Actually, in the month of June, 1998, the petitioner abandoned the job of his own despite the fact that the work was available. He did not bother to resume the duties in spite of the fact that the Junior Engineer, Irrigation and Public Health, Section Bathri directed him vide letter dated 08.7.1998 to join the duties. Assistant Engineer, I. & P.H. Sub Division, Banikhet also directed the petitioner per letter dated 11.7.1998 to resume the work, but in vain. The petitioner did not report for duty. His conduct shows that neither he was interested to work nor he was in need of a job. The work on which the petitioner was deployed was delayed as he did not report for duty. He is not entitled to any protection under the Act. No provision of the Act has been infringed. Presently, no work and funds are available for the petitioner. Since the petitioner left the service of his own, he is not entitled to the re-employment etc. No fictional breaks were ever given to the petitioner. As the petitioner voluntarily abandoned the job, he is debarred from claiming parity with the workmen who worked with him (respondent) continuously. No person junior to the petitioner has been retained in service. Even no new/fresh hands have been engaged. The petitioner is gainfully employed as a private mason after he left the service. The petition is meritless.

In these circumstances, the respondent prays that the petition in hand be dismissed.

4. In the rejoinder, the petitioner has reiterated the contents of the petition/statement of claim and refuted the objections put forth by the respondent. It has been maintained that the persons

junior to him are serving the respondent/department. Their names are S/Sh. Gula Ram, Karam Chand and Amar Singh etc. he never abandoned the job. Artificial breaks used to be given to him by the respondent so that he does not complete 240 days of work.

5. Vide order dated 03.6.2011, following issues were struck by my Id. Predecessor:-

1. Whether the termination of the petitioner w.e.f. 26.11.2000 is violative of the provisions of Section 25-F, 25-G & 25-H of the Industrial Disputes Act as alleged. If so, to what relief the petitioner is entitled to? . . .OPP.
2. Whether the petitioner was being given fictional breaks as alleged. If so, to what effect? . . . OPP.
3. Whether the reference is not maintainable as alleged. If so, to what effect? . . . OPR.
4. Whether the reference is hit by the vice of delay and laches as alleged. If so, to what effect? . . . OPR.
5. Relief.
6. I have heard the Id. counsel/AR for the parties and have gone through the case file.
7. For the reasons detailed here under, my findings on the above issues are as follows:-

Issue No. 1 : Partly Yes Partly No

Issue No. 2 : Not pressed

Issue No. 3 : Not pressed

Issue No. 4 : No

Relief. : Claim petition allowed in part vide operative portion of the Award.

Reasons for findings

Issue No. 1

8. The petitioner Shri Kailash Chand stepped into the witness box as PW1. In his affidavit Ex. PW1/A submitted under Order 18 Rule 4 CPC, he reiterated on oath the contents of the petition/statement of claim in its entirety.

In the cross-examination, he denied that he left the service of his own in the year 1998 and thereafter in the year 2000. He also denied that the notices were sent to him by the department calling upon him to resume the duties. Notices Marks D1 and D2 were never received by him. He denied that he has given a phoney statement.

9. Conversely, Sh. Sunil Dutt Chaudhary, Executive Engineer, I&PH, Dalhousie (respondent) testified as RW1. He corroborated on oath the contents of the reply filed by him.

In the cross-examination, he admitted that no notice was served upon the petitioner regarding his willful absence from duty w.e.f. 26.11.2000. He also admitted that neither any notice was given to the petitioner nor the retrenchment compensation was paid to him. In the seniority list Ex. RW1/D the name of the petitioner figures at serial No.41. He admitted that S/Sh. Surinder, Gandho Ram, Amar Singh, Karam Chand and Gula Ram are junior to the petitioner. The petitioner is D-Class contractor.

10. Mark-A is the copy of the interim order dated 23.3.2K passed by the Hon'ble Administrative Tribunal in O.A. (D) No. 590/1999 instituted by the petitioner against the respondent.
11. Mark-B is the copy of joining report dated 29.3.2000 submitted by the petitioner pursuant to the order dated 23.3.2000 (Mark-A) pronounced by the Hon'ble Tribunal.
12. Mark-C is the copy of the demand notice dated 17.7.2003 served by the petitioner under Section 2-A of the Act.
13. Ex. RW1/A is the mandays chart relating to the petitioner.
14. Ex. RW1/B (previously Mark-D1) is the copy of the notice allegedly sent by the Junior Engineer to the petitioner calling upon him to resume the duties.
15. Ex. RW1/C (earlier Mark-D2) is the copy of the notice dated 11.7.1998 sent by the Assistant Engineer to the petitioner for resuming the work.
16. Ex. RW1/D is the seniority list of the daily waged mason in respect of I&PH Division, Dalhousie, as on 31.12.2000.
17. Ex. D1 is the copy of an office order issued by the respondent evidencing that the petitioner has been enlisted as Class "D" Contractor.
18. Ex. D2 is the copy of the letter dated 17th September, 2010 written by the Engineer-in-Chief, I&PH Department, Shimla to all the Chief Engineer/Superintending Engineers etc. of I&PH Department in Himachal Pradesh regarding the revision of rates of wages of daily waged workers and the workers engaged on part time basis.
19. No reference has been received from the appropriate Government regarding the alleged termination of the services of the petitioner by the respondent on 1st July, 1998 and providing the fictional breaks, if any, to the petitioner. Therefore, these controversies between the parties cannot be looked into by this Court being beyond the terms of the reference.
20. It is the admitted case of the parties that the services of the petitioner were engaged as a daily rated mason in the month of January, 1996. The respondent has maintained that the petitioner worked intermittently as such up-to the month of November, 2000. The said fact finds support from the mandays chart Ex. RW1/A.
21. The version of the petitioner is that his services were terminated by the respondent wrongly and illegally w.e.f. 26.11.2000. While denying the said fact the respondent has pleaded that the petitioner left the service of his own accord and free volition. It is common knowledge that the abandonment has to be proved like any other fact by the respondent/employer. Simply because a workman fails to report for duty, it cannot be presumed that he has left/abandoned the job. The respondent (RW1) in his cross-examination admitted that no notice was sent to the petitioner regarding his willful absence from duty on 26.11.2000 and thereafter. There is nothing on the record to show that after 26.11.2000 any notice was given to the petitioner by the respondent calling upon him to resume the work. Absence from duties is serious misconduct. There is nothing on the file to show that some disciplinary action was initiated against the petitioner by the respondent for his alleged willful absence from duty. The plea of abandonment put forth by the respondent is not established.

22. It is not the case of the petitioner that the mandays chart (Ex. RW1/A) produced by the respondent is incorrect. Its perusal discloses that the petitioner did not complete 240 days of work in a block of 12 calendar months preceding the date of his termination as envisaged under Section 25-B of the Act. Therefore, the provisions of Section 25-F of the Act are not attracted in this case.

23. The respondent (RW1) in his cross-examination admitted that the persons junior to the petitioner namely Sh. Surinder etc. are working with him. The said fact finds corroboration from the seniority list Ex. RW1/D. This indicates that the respondent has failed to follow the principle of 'last come first go'. His action contravenes the provisions of Section 25-G of the Act. For the said reason, the disengagement of the petitioner is illegal and unjustified. Needless to say that for deriving the benefit under Section 25-G of the Act, a workman need not complete 240 days of work in a block of 12 calendar months preceding the date/month of his termination.

24. There is nothing on the record to show that after the termination of the services of the petitioner, new/fresh hands were engaged by the respondent. The provisions of Section 25-H of the Act are also not attracted in this case.

25. This issue is decided accordingly.

Issue No. 2

26. This issue has not been pressed by the Id. counsel for the petitioner as providing the fictional breaks, if any, to his client by the respondent is not a term of the reference.

27. The issue has been answered as such.

Issue No. 3

28. Not pressed.

Issue No. 4

29. In *Ajayab Singh vs. Sirhind Co-operative Marketing-cum-Processing Society Limited and Another*, (1999) 6 SCC 82, it has been observed by the Hon'ble Supreme Court that:

"The provisions of Article 137 of Limitation Act, 1963 are not applicable to the proceeding under the ID Act. The relief under the ID Act cannot be denied merely on the ground of delay. The plea of delay if raised by the employer is required to be proved as a matter of fact by showing the real prejudice and not as a merely hypothetical defence. No reference to the Labour Court can be generally questioned on the ground of delay alone".

30. In view of the trite laid down in this ruling, it cannot be said that the petition is hit by the vice of delay and laches. Of course, the delay in raising the industrial dispute by a workman can be taken into account by the Court while granting him the relief(s) claimed.

31. It is an admitted fact that the petitioner is a mason. From Ex. D1 i.e. the copy of the office order issued by the respondent, it can be gathered that the petitioner is enlisted as a Class "D" Contractor for Irrigation and Public Health Department. It does not appeal to a reasonable mind that a young man like the petitioner will sit at home during the period he is/was out of the service. The petitioner has failed to discharge the initial onus that during the period of his forced idleness, he was not gainfully employed. He is, thus, not entitled to the back wages.

32. This issue is decided in favour of the petitioner and against the respondent.

Relief (Issue No. 5)

33. As a sequel to my findings on the various issues, the instant claim petition succeeds in part and the same is partly allowed. The retrenchment of the petitioner is set aside and quashed. The respondent is directed to re-engage the petitioner forthwith. He shall be entitled to the seniority and continuity in service from the date of his illegal termination i.e. 26.11.2000 except back wages. Parties to bear their own costs.

34. The reference is answered in the aforesaid terms.

35. A copy of this Award be sent to the appropriate Government for publication in the official gazette.

36. File after due completion be consigned to the Record Room.

Announced in the open Court today this 1st day of August, 2012.

RAJAN GUPTA,
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Dharamshala, H.P.

IN THE COURT OF RAJAN GUPTA, PRESIDING JUDGE, LABOUR
COURT-CUM-INDUSTRIAL TRIBUNAL, DHARAMSHALA, H.P. (CAMP AT UNA)

Ref No. : 157/2011

Date of Institution : 17.12.2011

Date of Decision : 13.8.2012

Shri Yash Pal s/o Shri Prakash Chand, r/o Village Tayar, P.O. Khukhai, Tehsil Bangana,
Distt. Una, H.P. . . *Petitioner.*

Versus

M/s. C&C Construction Company Ltd., VPO Samoor Kalan, Distt. Una, H.P. . . *Respondent.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947.

For the Petitioner : Sh. S. S. Sippy, AR

For the Respondent : Already exparte

AWARD

The below given reference has been received from the appropriate Government for adjudication:

“Whether termination of the services of Sh. Yash Pal s/o Sh. Prakash Chand, Supervisor, who was drawing Rs.3500/- per month, r/o Village Tayar, P.O. Khukhai,

Tehsil Bangana, Distt. Una, (H.P.) by the management of M/s C&C Construction Company Ltd. VPO Samoor Kalan, Distt. Una, H.P. without issuing any charge sheet, without conducting enquiry and without following the provisions of the Industrial Disputes Act, 1947, is proper and justified? If not, to what back wages, service benefits and relief the above named workman is entitled to?"

2. The case of the petitioner (as set out in the statement of claim/demand) is that his services were engaged by the respondent as a Munshi/Supervisor on 08.10.2008 on payment of Rs.3500/- per month as wages. He worked continuously as such up-to 02.02.2010. On 3rd February, 2010, his services were terminated by the respondent by a verbal order. Neither any show cause notice was given to him nor he was informed about his misconduct, if any. The respondent is the registered company dealing in the construction work. Presently more than 400 persons are working in the company. The respondent has not prepared the seniority list of its workers. His (petitioner's) name has not been incorporated in the seniority list by the respondent which amounts to unfair labour practice. The respondent has failed to adhere to the principle of 'last come first go'. His services have been disengaged by the respondent wrongly and illegally in contravention of the provisions of Sections 25-F and 25-G of the Industrial Disputes Act, 1947 ('the Act' for short). He (petitioner) served a demand notice dated 5th February, 2010 upon the respondent, but in vain. From the date of his retrenchment, he is unemployed.

As such, he (petitioner) prays that the respondent be directed to reinstate him in service with all consequential benefits including the seniority, continuity in service and payment of back wages etc.

3. On notice, since the respondent did not appear despite service/knowledge, it was proceeded against exparte by my Id. Predecessor vide order dated January 23, 2012.

4. The petitioner Shri Yash Pal stepped into the dock as PW1. In his affidavit Ex. PW1/A submitted under Order 18 Rule 4 CPC, he reiterated on oath the contents of the petition/statement of claim in its entirety.

5. The deposition made by the petitioner (PW1) goes un-rebutted and unchallenged on the record. From the statement made by PW1, it can be gathered that he had served the respondent for a period of more than 240 days in a block of 12 calendar months preceding the date of his termination.

5A. Section 25-F of the Act postulate s as under:-

"25-F. Conditions precedent to retrenchment of workmen.-

No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until-

- (a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice :
- (b) the workman has been paid, at the time of retrenchment compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months; and
- (c) notice in the prescribed manner is served on the appropriate Government or such authority as may be specified by the appropriate Government by notification in the Official Gazette."

6. There is nothing on the record to show that before the termination of the services of the petitioner, the mandatory provisions of Section 25-F of the Act were complied with by the respondent. Therefore, it can be easily said that the disengagement of the petitioner is illegal and unjustified.

7. So far as the payment of back wages is concerned, the petitioner while testifying in the Court as PW1 has given his age as 30 years. It is common knowledge that a young man like the petitioner will not sit at home during the period he is/was out of the service. The petitioner has failed to discharge the initial onus that during the period of his forced idleness, he was not gainfully employed. He is, thus, not entitled to the back wages.

8. That being so, the instant claim petition succeeds in part and the same is partly allowed exparte. The retrenchment of the petitioner is set aside and quashed. The respondent is directed to re-engage the petitioner forthwith. He shall be entitled to the seniority and continuity in service from the date of his illegal termination i.e. 3rd February, 2010 except back wages. Parties to bear their own costs.

9. The reference is answered in the aforesaid terms.

10. A copy of this Award be sent to the appropriate Government for publication in the official gazette.

11. File after due completion be consigned to the Record Room.

Announced in the open Court today this 13th day of August, 2012.

RAJAN GUPTA,
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Dharamshala, H.P.

ब अदालत कार्यकारी दण्डाधिकारी एवं विवाह पंजीकरण अधिकारी, सुजानपुर, जिला हमीरपुर, हिमाचल प्रदेश

श्री राज कुमार पुत्र श्री जुल्फी राम, वासी भरंडू, डा0 कनेरड़, तहसील सुजानपुर, जिला हमीरपुर (हि0 प्र0)।

बनाम

आम जनता

विषय.— इश्तहार मुस्त्री मुनादी बराए विवाह पंजीकरण।

श्री राज कुमार पुत्र श्री जुल्फी राम, वासी भरंडू, डा0 कनेरड़ व दीपिका पुत्री श्री सुरजीत सिंह, टीका अम्बोटा, डा0 रोपड़ी, तहसील बड़सर, जिला हमीरपुर ने अदालत में प्रार्थना—पत्र मय ब्यानात हल्फिया पेश किये हैं कि दिनांक 29-11-2011 को हिन्दू रीति—रिवाज से निवासी भरंडू, डा0 कनेरड़, तहसील सुजानपुर, जिला हमीरपुर में दोनों की शादी हुई है। इस सन्दर्भ में दोनों ने शपथ—पत्र संलग्न करवाए हैं। शादी पंजीकरण हेतु आवेदन किया है।

अतः प्रार्थी का प्रार्थना—पत्र स्वीकार करते हुए इस इश्तहार मुस्त्री मुनादी आम जनता को सूचित किया जाता है कि यदि किसी व्यक्ति को उक्त विवाह बारे कोई एतराज हो तो वह असालतन या वकालतन तारीख

पेशी 4-2-2013 को सुबह दस बजे हाजिर अदालत होकर अपना उजर पेश कर सकता है। बाद तारीख पेशी किसी किस्म का उजर एवं एतराज न सुना जावेगा व विवाह पंजीकरण प्रमाण-पत्र जारी कर दिया जाएगा।

यह इश्तहार मोहर अदालत व मेरे हस्ताक्षर सहित आज दिनांक 7-1-2013 को जारी हुआ।

मोहर।

हस्ताक्षरित/—

कार्यकारी दण्डाधिकारी एवं विवाह पंजीकरण अधिकारी,
सुजानपुर, जिला हमीरपुर, हिमाचल प्रदेश।

ब अदालत कार्यकारी दण्डाधिकारी एवं विवाह पंजीकरण अधिकारी, सुजानपुर, जिला हमीरपुर, हिमाचल प्रदेश

श्री सुनील कुमार पुत्र श्री प्रताप चन्द, निवासी बजरोल, डा0 बजरोल, तहसील सुजानपुर, जिला हमीरपुर (हि0 प्र0)।

बनाम

आम जनता

विषय.— इश्तहार मुस्त्री मुनादी बराए विवाह पंजीकरण।

श्री सुनील कुमार पुत्र श्री प्रताप चन्द, निवासी बजरोल, डा0 बजरोल, तहसील सुजानपुर व अनीता देवी पुत्री श्री शोभा राम, निवासी टीका कुमसु, डा0 जटोली, तहसील निरमंड, जिला कुल्लू ने अदालत में प्रार्थना-पत्र मय ब्यानात हल्फिया पेश किये हैं व आवेदन किया है कि दिनांक 1-12-2011 को हिन्दू रीति-रिवाज से निवासी बजरोल, डा0 बजरोल, तहसील सुजानपुर, जिला हमीरपुर में दोनों की शादी हुई है। इस सन्दर्भ में दोनों ने अपने-अपने शपथ-पत्र भी संलग्न करवाए हैं। शादी पंजीकरण हेतु आवेदन किया है।

अतः प्रार्थी का प्रार्थना-पत्र स्वीकार करते हुए इस इश्तहार मुस्त्री मुनादी आम जनता को सूचित किया जाता है कि यदि किसी व्यक्ति को उक्त विवाह बारे कोई एतराज हो तो वह असालतन या वकालतन तारीख पेशी 23-1-2013 को सुबह दस बजे हाजिर अदालत होकर अपना उजर पेश कर सकता है। बाद तारीख पेशी किसी किस्म का उजर एवं एतराज न सुना जावेगा व विवाह पंजीकरण प्रमाण-पत्र जारी कर दिया जाएगा।

यह इश्तहार मोहर अदालत व मेरे हस्ताक्षर से आज दिनांक 18-12-2012 को हमारे जारी हुआ।

मोहर।

हस्ताक्षरित/—

कार्यकारी दण्डाधिकारी एवं विवाह पंजीकरण अधिकारी,
सुजानपुर, जिला हमीरपुर, हिमाचल प्रदेश।

ब अदालत तहसीलदार एवं कार्यकारी दण्डाधिकारी, सुजानपुर, जिला हमीरपुर, हिमाचल प्रदेश

श्री अनूप कुमार पुत्र श्री अमर नाथ, निवासी टीका पटलान्दर, तहसील सुजानपुर, जिला हमीरपुर, हिमाचल प्रदेश।

बनाम

आम जनता

विषय.—प्रार्थना—पत्र बराए नाम दरुस्ती बारे ।

श्री अनूप कुमार पुत्र श्री अमर नाथ, निवासी टीका पटलान्दर, तहसील सुजानपुर, जिला हमीरपुर, हिमाचल प्रदेश ने दिनांक 3-1-2013 को इस अदालत में एक प्रार्थना—पत्र प्रस्तुत करके अनुरोध किया है कि उसके पिता का सही नाम पंचायत रिकॉर्ड में अमर नाथ दर्ज है परन्तु कागजात माल टीका पटलान्दर में कांशी राम दर्ज है प्रार्थी का कहना है कि यह दोनों नाम उसके पिता के ही हैं। प्रार्थी अब दरुस्ती करवाकर अपने पिता का नाम राजस्व रिकॉर्ड में कांशी राम उपनाम अमर नाथ दर्ज करवाना चाहता है।

अतः इस इशतहार मुस्त्री मुनादी द्वारा आम जनता को सूचित किया जाता है कि अगर किसी को उपरोक्त नाम की दरुस्ती बारे किसी भी व्यक्ति को कोई उजर एतराज हो तो वह असालतन या वकालतन उपस्थित आकर दिनांक 4-2-2013 को प्रातः 10.00 बजे अपना उजर पेश कर सकता है अन्यथा गैर हाजरी की सूरत में एकतरफा कार्यवाही अमल में लाई जाएगी।

आज दिनांक 7-1-2013 को हमारे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित /—
तहसीलदार एवं कार्यकारी दण्डाधिकारी,
सुजानपुर, जिला हमीरपुर, हिमाचल प्रदेश।

ब अदालत तहसीलदार एवं सहायक समाहर्ता प्रथम श्रेणी, सुजानपुर, तहसील सुजानपुर, जिला हमीरपुर,
हिमाचल प्रदेश

मुकद्दमा नम्बर : 12/2012

तारीख पेशी : 7-2-2013

श्री रमेश चन्द पुत्र श्री तुलसी राम, टीका अम्ब गाहरा, मौजा करोट, तहसील सुजानपुर, जिला हमीरपुर, हिमाचल प्रदेश
प्रार्थी।

बनाम

1. कमला देवी पत्नी स्व० श्री कपूरा, 2. सलोचना देवी पत्नी स्व० श्री अंगत राम, 3. स्नेह लता पुत्री अंगत राम, 4. सुनील कुमार पुत्र अंगत राम, 5. संगत राम पुत्र कपूरा, 6. फूलां देवी पुत्री कपूरा, 7. विजय कुमार, 8. अजय कुमार पुत्रगण केहर सिंह, 9. प्रकाशां देवी पत्नी स्व० श्री केहर सिंह, 10. आशा देवी पुत्री केहर सिंह, 11. अंजू कुमारी पत्नी स्व० श्री प्रवीण कुमार, वासी टीका अम्ब गाहरा, मौजा करोट, तहसील सुजानपुर, जिला हमीरपुर
फरीकदोम।

विषय.—प्रार्थना—पत्र बराए तकसीम अराजी खाता संख्या 2, खतौनी संख्या 2, खसरा नम्बरान 20, 21, 24, कित्ता 3, रकबा तादादी 33 कनाल 8 मरला स्थित टीका अम्ब गाहरा, मौजा करोट, तहसील सुजानपुर।

प्रार्थी श्री रमेश चन्द ने उपरोक्त अराजी की तकसीम के लिए इस अदालत में एक प्रार्थना—पत्र दे रखा है। उपरोक्त फरीकदोम 1 से 6 को इस अदालत द्वारा कई बार समन जारी किए गए मगर यह उपरोक्त फरीकदोम पर साधारण तरीके से समनों की तामील हस्ब जाब्ता न हो रही है। मुताबिक तामील कुनिन्दा यह कहीं दूसरी जगह रिहायश करते हैं। प्रार्थी का कहना है कि उसे उनका पता मालूम न है। इसलिए प्रार्थी ने गुजारिश की है कि उपरोक्त फरीकदोम को बजरिया इशतहार राजपत्र द्वारा तलब किया जाए। इस इशतहार

राजपत्र द्वारा उपरोक्त फरीकदोम को सूचित किया जाता है कि अगर उन्हें उपरोक्त तकसीम के बारे कोई उजर या एतराज हो तो वह इस अदालत में असालतन या वकालतन दिनांक 7-2-2013 को सुबह 10.00 बजे इस अदालत में उपस्थित आए अन्यथा गैर-हाजरी की सूरत में एकतरफा कार्यवाही अमल में लाई जाकर आगामी कार्यवाही की जाएगी।

यह इश्तहार मोहर अदालत व मेरे हस्ताक्षर से आज दिनांक 5-1-2013 को जारी हुआ।

मोहर।

हस्ताक्षरित/—
तहसीलदार एवं सहायक समाहर्ता प्रथम श्रेणी,
सुजानपुर, जिला हमीरपुर, हिमाचल प्रदेश।

ब अदालत तहसीलदार एवं सहायक समाहर्ता प्रथम श्रेणी, सुजानपुर, तहसील सुजानपुर, जिला हमीरपुर,
हिमाचल प्रदेश

मुकद्दमा नम्बर : 13/2012

तारीख पेशी : 7-2-2013

श्री रमेश चन्द पुत्र श्री तुलसी राम, टीका अम्ब गाहरा, मौजा करोट, तहसील सुजानपुर, जिला हमीरपुर, हिमाचल प्रदेश प्रार्थी।

बनाम

1. कमला देवी पत्नी स्व० श्री कपूरा, 2. मंगत राम पुत्र कपूरा, 3. सलोचना देवी पत्नी स्व० श्री अंगत राम, 4. स्नेह लता पुत्री अंगत राम, 5. सुनील कुमार पुत्र अंगत राम, 6. संगत राम पुत्र कपूरा, 7. फूलां देवी पुत्री कपूरा, 8. त्यूंगली देवी पत्नी स्व० श्री राम सरन, वासी टीका अम्ब गाहरा, मौजा करोट, तहसील सुजानपुर, जिला हमीरपुर फरीकदोम।

विषय.—प्रार्थना—पत्र बराए तकसीम अराजी खाता नम्बर 1, खतौनी नम्बर 1, खसरा नम्बरान 6, 9, 10, 15, 25, कित्ता 5, रकबा तादादी 62 कनाल 10 मरला स्थित टीका अम्ब गाहरा, मौजा करोट, तहसील सुजानपुर।

प्रार्थी श्री रमेश चन्द ने उपरोक्त अराजी की तकसीम के लिए इस अदालत में एक प्रार्थना—पत्र दे रखा है। उपरोक्त फरीकदोम को इस अदालत द्वारा कई बार समन जारी किए गए मगर इन पर साधारण तरीके से समनों की तामील हसब जाब्ता न हो रही है। मुताबिक रिपोर्ट तामील कुनिन्दा यह कहीं दूसरी जगह रहते हैं। प्रार्थी का कहना है कि उसे उनका पता मालूम न है। इसलिए उसने गुजारिश की है कि इन्हें बजरिया इश्तहार राजपत्र द्वारा तलब किया जाए। इस कारण इस अदालत को भी विश्वास हो चुका है कि उपरोक्त फरीकदोम पर साधारण तरीके से तामील न हो सकती है। अतः उपरोक्त फरीकदोम को इस इश्तहार राजपत्र द्वारा सूचित किया जाता है कि अगर उन्हें उपरोक्त तकसीम के बारे कोई एतराज हो तो वह इस अदालत में असालतन या वकालतन दिनांक 7-2-2013 को सुबह 10.00 बजे उपस्थित आए अन्यथा गैर-हाजरी की सूरत में एकतरफा कार्यवाही अमल में लाई जाकर आगामी कार्यवाही की जाएगी।

यह इश्तहार मोहर अदालत व मेरे हस्ताक्षर से आज दिनांक 5-1-2013 को जारी हुआ।

मोहर।

हस्ताक्षरित/—
तहसीलदार एवं सहायक समाहर्ता प्रथम श्रेणी,
सुजानपुर, जिला हमीरपुर, हिमाचल प्रदेश।

अदालत श्री मनोज कुमार, तहसीलदार एवं कार्यकारी दण्डाधिकारी, तहसील धर्मशाला, जिला कांगड़ा, हिमाचल प्रदेश

मुकद्दमा नं०

श्रीमती अन्जु

बनाम

आम जनता

विषय.—प्रार्थना—पत्र जेर धारा 13 (3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

नोटिस बनाम आम जनता।

श्रीमती अन्जु पत्नी श्री राकेश कुमार, निवासी सिविल बाजार, तहसील धर्मशाला, जिला कांगड़ा ने इस अदालत में शपथ—पत्र सहित मुकद्दमा दायर किया है कि उसके पुत्र हरेष की जन्म तिथि 24-6-2008 है परन्तु M. C. Dharamshala में उक्त तारीख पंजीकृत न हुई है। अतः इसे पंजीकृत किये जाने के आदेश दिये जायें। इस नोटिस के द्वारा समस्त जनता को तथा सम्बन्धित रिश्तेदारों को सूचित किया जाता है कि यदि किसी को उपरोक्त बच्चे की जन्म तिथि पंजीकरण किये जाने बारे कोई एतराज हो तो वह अपना एतराज हमारी अदालत में दिनांक 2-2-2013 को असालतन या वकालतन हाजिर आकर पेश कर सकता है अन्यथा मुताबिक शपथ—पत्र जन्म तिथि पंजीकृत किये जाने बारे आदेश पारित कर दिये जाएंगे।

आज दिनांक 3-1-2013 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी किया गया।

मोहर।

मनोज कुमार,
नायब तहसीलदार एवं कार्यकारी दण्डाधिकारी,
धर्मशाला, जिला कांगड़ा, हिमाचल प्रदेश।

ब अदालत जनाब सहायक समाहर्ता द्वितीय श्रेणी, ज्वाली, जिला कांगड़ा, हिमाचल प्रदेश

श्रीमती कमलेश कुमारी पत्नी श्री रोशन लाल बावा, निवासी गांव मुहाल ढन, मौजा ज्वाली, तहसील ज्वाली, जिला कांगड़ा, हिमाचल प्रदेश

बनाम

आम जनता

प्रार्थना—पत्र जेर धारा 13 (3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

श्रीमती कमलेश कुमारी पत्नी श्री रोशन लाल बावा, निवासी गांव मुहाल ढन, डा० मतलाहड़, तहसील ज्वाली, जिला कांगड़ा, हिमाचल प्रदेश ने इस अदालत में प्रार्थना—पत्र गुजारा है कि उसके पुत्र नीरज बावा पुत्र श्री रोशन लाल बावा का जन्म दिनांक 21-5-1989 को गांव ढन में हुआ है जो गलती से पंचायत रिकार्ड में पंजीकृत नहीं करवा सकी है। अब वह जन्म तिथि पंचायत रिकार्ड में दर्ज करवाना चाहती है।

अतः इस नोटिस के माध्यम से सर्वसाधारण को सूचित किया जाता है कि यदि किसी व्यक्ति को उपरोक्त पंजीकरण बारे में उजर व एतराज हो तो वह दिनांक 30-1-2013 को सुबह 10.00 बजे इस न्यायालय में असालतन या वकालतन हाजिर आकर पेश कर सकता है अन्यथा हाजिर न आने की सूरत में यकतरफा कार्यवाही अमल में लाई जाकर जन्म तिथि पंचायत रिकार्ड में पंजीकृत करने के आदेश पारित कर दिए जाएंगे। उसके उपरान्त कोई एतराज न सुना जाएगा।

आज दिनांक 3-1-2013 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित/—
सहायक समाहर्ता द्वितीय श्रेणी,
ज्वाली, जिला कांगड़ा, हिमाचल प्रदेश।

ब अदालत तहसीलदार एवं कार्यकारी दण्डाधिकारी, खुण्डियां, जिला कांगड़ा, हिमाचल प्रदेश

केस नं० : 18/2012/T

किस्म मुकद्दमा : जन्म तिथि दर्ज करने बारे

तारीख पेशी : 8-2-2013

श्रीमती सपना रानी पत्नी श्री प्रताप सिंह, निवासी गांव छिलग, डा० व तहसील खुण्डियां, जिला कांगड़ा (हि० प्र०) . . प्रार्थिया।

बनाम

आम जनता

. . प्रतिवादीगण।

विषय.—दरखास्त जेर धारा 13 (3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969 के अन्तर्गत।

उपरोक्त वर्णित प्रार्थिया ने तहसील खुण्डियां में अधोहस्ताक्षरी के समक्ष असालतन हाजिर होकर इस अदालत में प्रार्थना-पत्र गुजारा है कि प्रार्थिया का पुत्र रजनीश कुमार जिसका जन्म दिनांक 28-4-1992 व विकास कुमार पुत्र सपना कुमारी का जन्म दिनांक 6-12-1993 को ग्राम पंचायत घरना, तहसील खुण्डियां में हुआ है, परन्तु ग्राम पंचायत घरना में उपरोक्त पुत्रों की जन्म तारीख क्रमशः 28-4-1992 की जगह 28-8-1992 तथा 6-12-1993 की जगह 26-12-1993 दर्ज हो चुकी है जिसकी दुरुस्ती के प्रार्थिया ने आदेश चाहे हैं।

अतः इस नोटिस के माध्यम से सर्वसाधारण को सूचित किया जाता है कि यदि किसी व्यक्ति को उपरोक्त पंजीकरण बारे किसी प्रकार की आपत्ति हो तो वह दिनांक 8-2-2013 को व्यक्तिगत रूप से अथवा किसी अधिवक्ता के माध्यम से इस न्यायालय में उपस्थित होकर अपनी आपत्ति व्यक्त कर सकता है अन्यथा दिनांक 8-2-2013 को किसी भी प्रकार की आपत्ति प्रस्तुत न होने की स्थिति में रजनीश कुमार पुत्र श्री प्रताप सिंह की जन्म तिथि 28-8-1992 की जगह 28-4-1992 व पुत्र विकास कुमार की जन्म तिथि 26-12-1993 की जगह 6-12-1992 पंजीकृत करने के आदेश पारित कर दिए जाएंगे।

आज दिनांक 8-1-2013 को मेरे हस्ताक्षर व मोहर अदालत सहित जारी हुआ।

मोहर।

हस्ताक्षरित/—
तहसीलदार एवं कार्यकारी दण्डाधिकारी,
खुण्डियां, जिला कांगड़ा, हिमाचल प्रदेश।

ब अदालत श्री सुरेश पटियाल, सहायक समाहर्ता प्रथम श्रेणी/तहसीलदार, खुण्डियां, जिला कांगड़ा, हिमाचल प्रदेश

मुकद्दमा नं० : 16/2012/T

किस्म मुकद्दमा : नाम दुरुस्ती

तारीख पेशी 8-2-2013

श्री पम्मी राज पुत्र श्री हरी चन्द, निवासी गांव सिद्धपुर, डाकखाना व मौजा मझीण, तहसील खुण्डियां, जिला कांगड़ा (हि० प्र०) . . वादी।

बनाम

आम जनता

. . प्रतिवादीगण।

विषय.—राजस्व अभिलेख पटवार वृत्त मझीण, गांव सिद्धपुर में गलत दर्ज नाम की दरुस्ती हेतु प्रार्थना—पत्र।

उपरोक्त वर्णित प्रार्थी पम्मी राज ने अधोहस्ताक्षरी के समक्ष असालतन हाजिर होकर अपने नाम की राजस्व अभिलेख में दरुस्ती हेतु शपथ—पत्र सहित प्रार्थना—पत्र पेश किया है। प्रार्थी ने व्यक्त किया है कि उसका असली नाम पम्मी राज है। प्रार्थी के अनुसार ग्राम पंचायत व बच्चों के स्कूल प्रमाण—पत्रों में भी उसका नाम पम्मी राज दर्ज है परन्तु राजस्व अभिलेख पटवार वृत्त मझीण में उसका नाम पम्मी राज की जगह भूमि राज दर्ज हो चुका है जिसकी दरुस्ती के प्रार्थी ने आदेश चाहे हैं।

अतः प्रार्थना—पत्र को स्वीकार करते हुए प्रतिवादीगण आम जनता/किसी भी हितबद्ध व्यक्ति या संस्था को इस विज्ञप्ति के माध्यम से सूचित किया जाता है कि यदि किसी को उपरोक्त विज्ञप्ति के माध्यम से सूचित किया जाता है कि यदि उपरोक्त प्रार्थी के नाम की दरुस्ती बारे किसी किस्म की आपत्ति हो तो वह दिनांक 8-2-2013 को व्यक्तिगत रूप से अथवा किसी अधिवक्ता के माध्यम से इस न्यायालय में उपस्थित होकर अपनी आपत्ति व्यक्त कर सकता है अन्यथा दिनांक 8-2-2013 को किसी भी प्रकार की आपत्ति प्रस्तुत न होने की स्थिति में राजस्व अभिलेख में नाम की दरुस्ती के आदेश पारित कर दिए जाएंगे।

आज दिनांक 8-1-2013 को मेरे हस्ताक्षर व मोहर अदालत सहित जारी हुआ।

मोहर।

सुरेश पटियाल,
सहायक समाहर्ता प्रथम श्रेणी व तहसीलदार,
खुण्डियां, जिला कांगड़ा, हिमाचल प्रदेश।

ब अदालत सहायक समाहर्ता प्रथम श्रेणी/तहसीलदार, खुण्डियां, जिला कांगड़ा, हिमाचल प्रदेश

मुकद्दमा नं० :

किस्म मुकद्दमा : नाम दरुस्ती

तारीख पेशी 8-2-2013

श्री प्रेम चन्द पुत्र श्री तानी राम, निवासी गांव मुहाल पुखरू, मौजा हबडोल, डाकखाना लगडू, तहसील खुण्डियां, जिला कांगड़ा (हि० प्र०) . . प्रार्थी।

बनाम

आम जनता

. . प्रतिवादीगण।

विषय.—राजस्व अभिलेख में गलत नाम की दरुस्ती हेतु प्रार्थना—पत्र।

उपरोक्त वर्णित प्रार्थी श्री प्रेम चन्द पुत्र श्री तानी राम, निवासी गांव मुहाल पुखरू, मौजा हबडोल, डाकखाना लगडू, तहसील खुण्डियां, जिला कांगड़ा (हि० प्र०) ने अधोहस्ताक्षरी के समक्ष असालतन हाजिर होकर अपने नाम की राजस्व अभिलेख में दरुस्ती हेतु शपथ—पत्र सहित प्रार्थना—पत्र पेश किया है। प्रार्थी ने व्यक्त किया है कि उसका असली नाम प्रेम चन्द ही है। प्रार्थी के अनुसार ग्राम पंचायत पुखरू व बच्चों के स्कूल प्रमाण—पत्रों में भी उसका नाम प्रेम चन्द दर्ज है परन्तु राजस्व अभिलेख पटवार वृत्त लगडू के मुहाल पुखरू में उसका नाम प्रेम चन्द की जगह बंगाली दर्ज है जिसकी दरुस्ती के प्रार्थी ने आदेश चाहे हैं।

अतः प्रार्थना—पत्र को स्वीकार करते हुए प्रतिवादीगण आम जनता किसी भी हितबद्ध व्यक्ति या संस्था को इस विज्ञप्ति के माध्यम से सूचित किया जाता है कि यदि उपरोक्त प्रार्थी के नाम की दरुस्ती बारे किसी किस्म की आपत्ति हो तो वह दिनांक 8-2-2013 को व्यक्तिगत रूप से अथवा किसी अधिवक्ता के माध्यम से इस न्यायालय में उपस्थित होकर अपनी आपत्ति व्यक्त कर सकता है अन्यथा दिनांक 8-2-2013 को किसी

भी प्रकार की आपत्ति प्रस्तुत न होने की स्थिति में राजस्व अभिलेख में नाम की दुरुस्ती के आदेश पारित कर दिए जाएंगे।

आज दिनांक 8-1-2013 को मेरे हस्ताक्षर व मोहर अदालत सहित जारी हुआ।

मोहर।

हस्ताक्षरित/—
सहायक समाहर्ता प्रथम श्रेणी व तहसीलदार,
खुण्डियां, जिला कांगड़ा, हिमाचल प्रदेश।

ब अदालत कार्यकारी दण्डाधिकारी, शाहपुर, जिला कांगड़ा, हिमाचल प्रदेश

श्री रविन्द्र सिंह पुत्र श्री जीत सिंह, निवासी गांव वसनूर, तहसील शाहपुर, जिला कांगड़ा, हिमाचल प्रदेश . . . वादी।

बनाम

आम जनता

विषय.— प्रार्थना पत्र जेर धारा 13(3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

उपरोक्त प्रार्थी ने अधोहस्ताक्षरी की अदालत में प्रार्थना-पत्र मय ब्यान हल्फी इस आशय से गजारा है कि मेरे पिता जीत सिंह की मृत्यु दिनांक 17-9-1996 को हुई है लेकिन मृत्यु तिथि ग्राम पंचायत वसनूर के रिकॉर्ड में दर्ज न है जिसे दर्ज किया जावे।

अतः इस सम्बन्ध में सर्वसाधारण को बजरिया इश्तहार सूचित किया जाता है कि यदि किसी भी व्यक्ति को मृत्यु तिथि दर्ज करने बारे कोई उजर व एतराज हो तो वह दिनांक 24-1-2013 को असालतन या वकालतन अदालत हाजिर आकर पेश कर सकता है। हाजिर न आने की सूरत में एकतरफा कार्यवाही अमल में लाई जाकर मृत्यु दर्ज करने के आदेश कर दिए जाएंगे।

आज दिनांक.....को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित/—
कार्यकारी दण्डाधिकारी,
शाहपुर, जिला कांगड़ा, हिमाचल प्रदेश।

ब अदालत कार्यकारी दण्डाधिकारी, शाहपुर, जिला कांगड़ा, हिमाचल प्रदेश

श्रीमती रानो देवी पत्नी श्री मनी राम, निवासी गांव दरगेला खुपट्टा, तहसील शाहपुर, जिला कांगड़ा, हिमाचल प्रदेश . . . प्रार्थिया।

बनाम

आम जनता

विषय.— प्रार्थना पत्र जेर धारा 13(3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

उपरोक्त प्रार्थी ने अधोहस्ताक्षरी की अदालत में प्रार्थना-पत्र मय ब्यान हल्फी इस आशय से गुजारा है उसकी पुत्री अर्चना अत्री की जन्म तिथि 15-5-1999 है जोकि ग्राम पंचायत दरगेला के रिकॉर्ड में दर्ज न है जिसे दर्ज किया जावे।

अतः इस सम्बन्ध में सर्वसाधारण को बजरिया इश्तहार सूचित किया जाता है कि यदि किसी भी व्यक्ति को जन्म तिथि दर्ज करने बारे कोई उजर व एतराज हो तो वह दिनांक 30-1-2013 को असातन या वकालतन अदालत हाजिर आकर पेश कर सकता है। हाजिर न आने की सूरत में एकतरफा कार्यवाही अमल में लाई जाकर जन्म तिथि दर्ज करने के आदेश कर दिए जाएंगे।

आज दिनांक.....को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित/—
कार्यकारी दण्डाधिकारी,
शाहपुर, जिला कांगड़ा, हिमाचल प्रदेश।

ब अदालत सहायक समाहर्ता द्वितीय श्रेणी, शाहपुर, जिला कांगड़ा, हिमाचल प्रदेश

श्री ओम प्रकाश पुत्र श्री झड़ू राम, निवासी गांव फलगेहड़, मौजा सिंह, तहसील शाहपुर, जिला कांगड़ा, हिमाचल प्रदेश . . वादी।

बनाम

आम जनता

विषय.—प्रार्थना-पत्र कागजात माल में नाम की दुरुस्ती करने बारे।

श्री ओम प्रकाश पुत्र श्री झड़ू राम, निवासी गांव फलगेहड़, मौजा सिंह, तहसील शाहपुर ने इस कार्यालय में मय ब्यान हल्फी गुजारा है कि उसका सही नाम ओम प्रकाश है। परन्तु राजस्व अभिलेख में ओमी दर्ज है जोकि गलत है। दुरुस्ती की जावे।

अतः इस इश्तहार के माध्यम से आम जनता को सूचित किया जाता है कि यदि किसी व्यक्ति को कोई उजर व एतराज हो तो वह दिनांक 24-1-2013 को इस कार्यालय में पेश कर सकता है अन्यथा नाम की दुरुस्ती कागजात माल में नियमानुसार कर दी जाएगी।

आज दिनांक.....को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित/—
सहायक समाहर्ता द्वितीय श्रेणी,
शाहपुर, जिला कांगड़ा, हिमाचल प्रदेश।

ब अदालत सहायक समाहर्ता द्वितीय श्रेणी, शाहपुर, जिला कांगड़ा, हिमाचल प्रदेश

श्री गिरधारी लाल पुत्र श्री चमारु राम, निवासी गांव केटलु, डा0 रजोल, तहसील शाहपुर, जिला कांगड़ा, हिमाचल प्रदेश।

बनाम

आम जनता

विषय.—प्रार्थना—पत्र कागजात माल में नाम की दुरुस्ती करने बारे।

श्री गिरधारी लाल पुत्र श्री चमारु राम, निवासी गांव केटलु, डा0 रजोल, तहसील शाहपुर ने इस कार्यालय में मय ब्यान हल्फी गुजारा है कि उसका सही नाम गिरधारी लाल है। परन्तु राजस्व अभिलेख में डूमनू दर्ज है जोकि गलत है। दुरुस्ती की जावे।

अतः आम जनता को इस राजपत्र इश्तहार द्वारा सूचित किया जाता है कि यदि किसी व्यक्ति को कोई उजर व एतराज हो तो वह दिनांक 30-1-2013 को प्रातः 10.00 बजे असालतन या वकालतन हाजिर आकर पेश कर सकता है। गैर-हाजरी की सूरत में एकतरफा कार्यवाही अमल में लाई जाएगी।

आज दिनांक.....को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित/—
सहायक समाहर्ता द्वितीय श्रेणी,
शाहपुर, जिला कांगड़ा, हिमाचल प्रदेश।

ब अदालत सहायक समाहर्ता द्वितीय श्रेणी, उप-तहसील धर्मपुर, जिला मण्डी, हिमाचल प्रदेश

श्री संजय कुमार पुत्र श्री जय देव, निवासी जोल मलुवा, उप-तहसील धर्मपुर, जिला मण्डी प्रार्थी।

बनाम

आम जनता

प्रार्थना—पत्र अधीन धारा 13 (3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

प्रार्थी श्री संजय कुमार ने इस अदालत में प्रार्थना—पत्र प्रस्तुत करते हुए अपने प्रार्थना—पत्र में उल्लेख किया है कि उसकी पुत्री कुमारी साक्षी का जन्म 17-11-2007 को हुआ है परन्तु वह अज्ञानतावश उसकी जन्म तिथि सम्बन्धित ग्राम पंचायत के रिकॉर्ड में दर्ज नहीं करवा सका है। जिसे अब वह दर्ज करवाना चाहता है।

अतः आम जनता को इस इश्तहार द्वारा सूचित किया जाता है कि यदि किसी व्यक्ति आम या खास को उक्त कुमारी साक्षी की जन्म तिथि दर्ज करने बारे कोई उजर/एतराज हो तो वह दिनांक 29-1-2013 को प्रातः 10.00 बजे असालतन या वकालतन हाजिर होकर पेश कर सकता है अन्यथा हाजिर न आने की सूरत में एकतरफा कार्यवाही अमल में लाई जाकर प्रार्थना—पत्र का निपटारा नियमानुसार कर दिया जाएगा।

आज दिनांक 28-12-2012 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित/—
सहायक समाहर्ता द्वितीय श्रेणी,
धर्मपुर, जिला मण्डी, हिमाचल प्रदेश।

ब अदालत श्री टशी सन्दुप (हि0प्र0से0) समाहर्ता, उप-मण्डल पांवटा साहिब, जिला सिरमौर, हिमाचल प्रदेश

मिसल नं० : 26/10

तारीख दायर : 21-6-2010

तारीख पेशी : 21-1-2013

श्री जगदीश चन्द पुत्र श्री गरीबू निवासी ग्राम जोहडों, तहसील पांवटा साहिब, जिला सिरमौर, हिमाचल प्रदेश . . अपीलकर्ता।

बनाम

श्री डेरा पुत्र श्री गोंदा, निवासी ग्राम जोहडों, तहसील पांवटा साहिब, जिला सिरमौर, हिमाचल प्रदेश व अन्य . . प्रतिवादीगण।

भू-राजस्व नियम की धारा 14 के अन्तर्गत सहायक समाहर्ता प्रथम श्रेणी, पांवटा साहिब द्वारा मिसल नं० 85/06 तथा 86/06 उनवान मुकद्दमा जगदीश चन्द आदि बनाम डेरा आदि में पारित आदेश दिनांक 27-4-10 के विरुद्ध अपील।

नोटिस बनाम :

प्रतिवादी नम्बर 21 श्रीमती बिमला देवी, नम्बर 22 श्रीमती माडो देवी, नम्बर 23 श्रीमती रोशनी देवी, नम्बर 24 श्रीमती पोहलो देवी पुत्रियां श्री माडा, प्रतिवादी नम्बर 31 श्रीमती जसविन्द्र कौर तथा नम्बर 32 श्रीमती गरीबू देवी पुत्री व विधवा श्री काडू समस्त निवासीगण ग्राम बालकावाडी (डोईवाला), जिला देहरादून (उ० ख०)।

उपरोक्त मुकद्दमा उनवान बाला में इस न्यायालय में उपरोक्त श्री जगदीश चन्द आदि दावाकर्ताओं द्वारा श्री डेरा आदि के खिलाफ भू-राजस्व नियम 14 के अन्तर्गत सहायक समाहर्ता प्रथम श्रेणी, पांवटा साहिब द्वारा मिसल संख्या 85/06 तथा 86/06 उनवान मुकद्दमा जगदीश चन्द आदि बनाम डेरा आदि में दिनांक 27-4-2010 को पारित किए गए आदेश के सम्बन्ध में एक अपील दायर की गई है जिसकी सुनवाई इस अदालत द्वारा की जा रही है। इस न्यायालय द्वारा उक्त प्रतिवादियों को कई बार समन जारी किए गए परन्तु समन की तामील नहीं की जा सकी। जिससे प्रतीत होता है कि उक्त प्रतिवादियों को साधारण तरीके से समन की तामील की जानी सम्भव नहीं है।

अतः उक्त प्रतिवादियों को बजरिया इश्तहार सूचित किया जाता है कि वे मुकद्दमा की पैरवी हेतु असालतन व वकालतन दिनांक 21-1-2013 को सुबह 10.00 बजे इस अदालत में हाजिर आवें। अदालत में हाजिर न होने की सूरत में उनके विरुद्ध कार्यवाही एकतरफा अमल में लाई जाएगी।

आज दिनांक 3-1-2013 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

टशी सन्दुप,
समाहर्ता,
उप-मण्डल, पांवटा साहिब, जिला सिरमौर, हिमाचल प्रदेश।